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# **Unemployment Insurance System**



# Unemployment Insurance System

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# Unemployment Insurance System

In 1932, Wisconsin became the first state in the nation to implement an unemployment insurance (UI) program. Three years later, Congress approved a national unemployment insurance policy modeled after the Wisconsin program as part of the Social Security Act of 1935. The nation's first unemployment benefits check in the amount of \$15 was issued on August 17, 1936, by the Industrial Commission of Wisconsin to Neils B. Ruud, a laid-off engraving company employee from Madison who was left jobless by the Great Depression.

As originally designed, this program was intended to further a number of different social goals. Most fundamentally, the program was designed to provide a temporary source of income, financed by employers, for workers who were laid off from their jobs. In addition, the program was implemented to further broader societal goals, which included establishing a policy designed to encourage stable employment practices and a mechanism to provide an economic stimulus during economic downturns.

Although these fundamental principles still underlie the current unemployment insurance system, the scope of the system has increased considerably since its inception. The current system is characterized by interrelated benefit and tax structures, which are affected by provisions of both state and federal law.

The purpose of this paper is to provide a general review of the state's unemployment insurance system. The first section in this paper provides an overview of the system. The following sections provide descriptions of various components of the unemployment insurance system. The final section describes the current financial status of the unemployment insurance trust fund.

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## Unemployment Insurance Benefits in Wisconsin

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Wisconsin's unemployment insurance system is designed to provide a source of income to workers during periods of temporary unemployment. In order to achieve this objective, Wisconsin's unemployment insurance law (Chapter 108, Wisconsin Statutes) provides the following types of benefits for unemployed workers: regular benefits, supplemental benefits, and extended benefits. Supplemental and extended benefits are not available to the same individual at the same time as regular benefits, but are designed in combination to lengthen the amount of time during which an unemployed worker can receive benefits during periods of higher unemployment.

The net effect of Wisconsin's three UI benefit programs depends on the state's insured unemployment rate. At low rates, an eligible claimant can receive regular unemployment insurance benefit payments for up to 26 weeks. If the insured unemployment rate rises enough to trigger Wisconsin supplemental benefits, an eligible claimant can receive benefit payments for a maximum of 34 weeks, equaling 26 weeks of regular benefits plus eight weeks of state supplemental compensation payments. Finally, if the insured unemployment rate rises enough to trigger extended benefits, an eligible claimant can receive benefits for a maximum of 39 weeks, or 26 weeks of regular benefits plus 13 weeks of extended benefits.

### Regular Benefits

Regular UI benefits are the main type of benefits that an unemployed worker can receive. In order to receive these benefits, a claimant must

have been employed in covered employment and must meet specific minimum qualifying or eligibility criteria. If a claimant is eligible to receive regular benefits, the total amount of benefits available to the claimant depends on the wages earned by the claimant in covered employment in a base period. The maximum benefits available are the lesser of 26 times the weekly benefit rate or 40% of total base-period wages. (The method for determining regular benefit payments is described in a subsequent section.)

Eligible claimants must wait one week prior to receiving unemployment insurance benefits. A UI claimant's waiting period is the first week of a claimant's benefit year for which the claimant is otherwise eligible for regular benefits. During a claimant's waiting period, no benefits are payable to the claimant. The waiting period does not affect a claimant's maximum benefit amount, which is 26 weeks of regular state benefits. However, claimants who do not reach the state's 26-week limit effectively receive one fewer week of benefits due to the waiting week requirement. A claimant must serve one waiting week per benefit year.

### **Supplemental Benefits and Extended Benefits**

As a condition of certification under the Federal Unemployment Tax Act (FUTA), a state is required to have an extended benefits program in state law as provided by the Federal-State Extended Unemployment Compensation Act of 1970. Wisconsin's extended benefits program was created by Wisconsin Chapter 53, Laws of 1971. In addition to the extended benefits program, Wisconsin subsequently created a supplemental benefits program, which is similarly structured but more sensitive to unemployment rate increases. Wisconsin's supplemental benefit program was created by 1983 Wisconsin Act 8.

Supplemental and extended benefits provided under Wisconsin's unemployment insurance law are designed to lengthen the duration of benefits during periods of high unemployment. Unlike

regular benefits, which depend only on the eligibility of the claimant, supplemental and extended benefits also depend on the general unemployment situation. In order for these benefits to be paid, Wisconsin's insured unemployment rate must exceed specified trigger levels.

**Supplemental Benefits.** As the insured unemployment rate rises, the first trigger point to be reached is that for Wisconsin supplemental benefits. Specifically, Wisconsin supplemental benefits are triggered when the state insured unemployment rate for the current week and the preceding 12 weeks: (a) equals or exceeds 120% of the average of such rates for the corresponding 13-week period during each of the preceding two calendar years and equals or exceeds 4%; or (b) equals or exceeds 5%. The supplemental benefit period begins the third week after the unemployment rate threshold is triggered.

When the Wisconsin supplemental benefit program is triggered, it acts to increase the maximum amount of state benefits for eligible claimants by up to eight weeks, from 26 to 34 times the weekly benefit rate. However, total regular and supplemental benefits cannot exceed 40% of base-period wages. The number of weeks for which the regular and supplemental weekly benefit payment would be received is determined by dividing the total benefit entitlement by the weekly benefit rate. Supplemental benefits are only available to claimants who have exhausted all of their regular benefits.

**Extended Benefits.** If the insured unemployment rate continues to rise, the trigger point for extended benefits may be reached. Extended benefits are triggered if the state Department of Workforce Development (DWD) determines that for the current week and the preceding 12 weeks, the state insured unemployment rate: (a) equals or exceeds 120% of the average of such rates for the corresponding 13-week period during each of the preceding two calendar years and equals or exceeds 5%; or (b) equals or exceeds 6%. Once

extended benefits are triggered, Wisconsin supplemental benefits are no longer available. Again, the extended benefit period begins the third week after the unemployment rate trigger point is reached.

Once extended benefits are triggered, eligible claimants can receive additional benefit payments equal to the lesser of: (a) one-half of their regular benefit payments; (b) thirteen times their weekly benefit rate; or (c) 39 times their weekly benefit rate reduced by the amount of regular benefit payments received. As a result, claimants can receive up to 26 weeks of regular benefit payments and an additional 13 weeks of extended benefit payments. However, extended benefit payments must be reduced by the amount of supplemental benefits received. To be eligible for extended benefits, claimants must have base-period wages equal to 40 times their weekly benefit rate, exhaust all regular benefits, and meet certain work search requirements.

Extended benefits paid to claimants formerly employed by governmental units are financed by direct reimbursement. Extended benefits paid to other claimants are financed on an equal basis through state and federal financing methods.

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### **Federal Role in the Unemployment Insurance System**

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Underlying the unemployment insurance systems developed by each of the states is the federal unemployment insurance law. This law, primarily embodied in the Federal Unemployment Tax Act and portions of the Social Security Act, was originally adopted to encourage the states to establish their own unemployment insurance systems and to ensure that these systems met certain minimum standards. Today, because all of the states have unemployment insurance systems, federal law serves primarily to maintain certain minimum standards and to provide financial assistance to the

individual systems.

A major component of the federal unemployment insurance law is the federal unemployment tax. The tax is paid by most private, for-profit employers and assessed on the first \$7,000 per year paid to each employee for work covered by the federal unemployment insurance law. The Federal Unemployment Tax Act (FUTA) tax is 6% of the first \$7,000 of employee earnings. Federal law provides for an offset credit of up to 5.4% for state unemployment insurance taxes paid. This credit is available to employers where the state unemployment insurance law conforms to federal law and where the state tax rates are experience-rated.

For federal fiscal year 2020, Wisconsin employers paid an estimated \$112.2 million in federal unemployment taxes. If the Wisconsin unemployment insurance law had not met the standards for federal approval, Wisconsin employers would have had to pay additional taxes due to the elimination of the federal tax credit. The value of the tax credit to Wisconsin's employers serves as a strong incentive to keep the state's unemployment insurance law in compliance with the federal standards.

The revenues the federal government receives from the federal unemployment tax are used for three principal purposes. First, they are used to finance the administration of the unemployment insurance system and job service program at both the federal and state levels. During the 2021 federal fiscal year, Wisconsin received approximately \$76.4 million in federal unemployment administration funding. Additional federal administrative funds were received for employment service and labor market information. In order to receive this funding, the state's unemployment insurance law must be approved by the Secretary of the U.S. Department of Labor (USDOL). Second, federal unemployment tax revenues are used to finance the federal share of extended benefit payments and benefits under certain federal supplemental and emergency programs. Additional information

regarding these emergency federal programs is provided in the next section. Finally, these revenues are also used to make loans to the UI trust funds of states that need these advances to continue to meet their benefit obligations.

Federal law requires state unemployment insurance systems to cover nonprofit organizations and government entities. In addition, state unemployment insurance tax collections are deposited in the federal UI trust fund in the U.S. Treasury and credited to individual state trust fund accounts. The states draw on these accounts to make benefit payments.

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### **Federal and State Unemployment Insurance Provisions Addressing the COVID-19 Pandemic**

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The onset of the COVID-19 pandemic in March, 2020, had an immediate and significant impact on the number of claims filed for unemployment insurance benefits in the United States. The pandemic was unique from prior economic downturns with initial unemployment claims spiking to peak levels in a matter of days, instead of weeks or months. In Wisconsin, initial claim filings for UI benefits increased dramatically over seven-day period, from 710 initial claims filed on March 12, 2020, to 110,900 initial claims filed on March 19, 2020.

The following two sections describe federal and state law changes to unemployment insurance in response to the COVID-19 pandemic and related recession.

#### **Federal Provisions Addressing the Pandemic**

The Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) signed into law on March 27, 2020, provided for a substantial expansion of unemployment insurance and

benefits for workers impacted by the COVID-19 pandemic. The Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act"), signed into law on December 27, 2020, and the American Rescue Plan Act (ARPA), signed into law on March 11, 2021, extended many of the UI programs authorized under the CARES Act. Prior to the CARES ACT, the Families First Coronavirus Response Act ("Families First Act") (P.L. 116-127), signed into law on March 18, 2020, provided emergency administrative grants to states to assist in the processing of claims.

Table 1 shows a summary of the federally-funded benefit programs and the amount of funding that Wisconsin distributed to eligible claimants from these programs.

**Pandemic Emergency Unemployment Compensation (PEUC).** The Pandemic Emergency Unemployment Compensation (PEUC) program provided an additional 24 weeks of 100% federally-funded UI benefits to individuals that had exhausted regular state UI benefits. The PEUC extended UI benefits in the state to 79 weeks. Individuals that received these extended benefits could also qualify for Federal Pandemic Unemployment Compensation and Lost Wages Assistance supplementary payments, described in later sections.

PEUC benefits were payable from the week ending April 4, 2020, through the week ending September 4, 2021. Of the maximum 53 weeks in benefits that may be claimed under the PEUC program, 40 of these weeks could only be paid for the week ending January 2, 2021 or later.

**Pandemic Unemployment Assistance (PUA).** The Pandemic Unemployment Assistance (PUA) program expanded UI coverage to many workers who are typically not eligible for UI benefits, such as self-employed workers, independent contractors, freelancers, and those workers that did not have sufficient work history to qualify for regular state UI benefits. The temporary federal

**Table 1: Federally-Funded Unemployment Insurance Benefit Programs During the COVID-19 Pandemic**

	Pandemic Emergency Unemployment Compensation (PEUC)	Pandemic Unemployment Assistance (PUA)	Federal Pandemic Unemployment Compensation (FPUC) - <u>First Round</u>	Federal Pandemic Unemployment Compensation (FPUC) - <u>Second Round</u>	Lost Wages Assistance (LWA)
First Payable Week	Week ending April 4, 2020	Week ending February 8, 2020	Week ending April 4, 2020	Week ending January 2, 2021	Week ending August 1, 2020
Last Payable Week	Week Ending September 4, 2021	Week ending September 4, 2021	Week ending July 25, 2020	Week ending September 4, 2021	Week ending September 5, 2020
Benefit Amount	Same as claimant's regular UI benefit	\$163 minimum weekly benefit up to a \$370 maximum	Regular benefit + \$600 weekly supplemental payment	Regular benefit + \$300 weekly supplemental payment	Regular benefit + \$300 weekly supplemental payment
Duration of Benefits	Up to 53 weeks	Up to 79 weeks	Up to 17 weeks	Up to 36 weeks	Up to 6 weeks
Eligibility	Individuals who have exhausted regular UI	Individuals not eligible for regular UI, PEUC or EB and are unemployed or unable or unavailable to work because of a listed COVID-19 related reason in the CARES Act	Individuals collecting regular UI, PEUC, EB, or PUA*	Individuals collecting regular UI, PEUC, EB, or PUA*	Individuals who certify they are unemployed due to disruptions caused by COVID-19 and are receiving a minimum weekly benefit of \$100 from UI, PUA, PEUC, or EB
Total Federal Payments Through November 1, 2022	\$549.4 million	\$353.7 million	\$3,860.4 million		\$229.3 million

\*Must be eligible to receive at least \$5 (using the partial wage formula)

expansion of UI is for those workers not eligible for regular or extended benefits under state or federal law, so long as their unemployment was connected to COVID-19.

To be eligible for PUA, an individual must have been otherwise able or available to work, but made unemployed, partially unemployed, or unable or unavailable to work because the

individual: (a) had been diagnosed with COVID-19 or was experiencing symptoms of COVID-19 and was seeking a medical diagnosis; (b) was a member of household where a household member has been diagnosed with COVID-19; (c) was providing care for a member of their family or household diagnosed with COVID-19; (d) was the primary caregiver for a child or other person in their household who is unable to attend school or

another facility that is closed as a direct result of COVID-19; (e) was unable to reach their place of employment due to an imposed quarantine or because they had been advised by a health care provider to self-quarantine due to COVID-19; (f) was scheduled to commence employment and did not have a job or was unable to reach the job as a direct result of the COVID-19; (g) had become the major supporter for a household because the head of the household had died from COVID-19; (h) quit their job as a direct result of COVID-19; or (i) was employed at a place of employment that was closed as a direct result of COVID-19.

PUA benefits were payable for weeks of unemployment beginning on the week ending February 8, 2020, through the week ending September 4, 2021. The deadline to apply for PUA was October 6, 2021.

The PUA weekly benefit amount for qualifying individuals cannot result in a weekly PUA benefit payment that was less than \$163 or more than \$370. In addition, PUA recipients qualified for the weekly Federal Pandemic Unemployment Compensation supplemental payments described in the following section. The total number of weeks qualified individuals may receive PUA may not exceed 79 weeks.

**Federal Pandemic Unemployment Compensation (FPUC).** The CARES Act provided that from the week ending April 4, 2020, through the week ending July 25, 2020, the federal government would provide temporary Federal Pandemic Unemployment Compensation (FPUC) of \$600 a week to any individual eligible for state or federal unemployment benefits. Subsequently, the Continued Assistance Act, as extended by the American Rescue Plan Act, provided that from the week ending January 2, 2021, through the week ending September 4, 2021, the federal government would provide temporary FPUC payments of \$300 a week to any individual eligible for state or federal

unemployment benefits. FPUC automatically provided these supplemental payments to individuals who were collecting regular UI benefit payments as well as those individuals that received payments under the PUA, PEUC, work-share, and other federal UI programs. Under the CARES Act, states would be fully reimbursed for the cost of administering the supplement and for the cost of the supplement itself.

**Lost Wages Assistance (LWA).** The Lost Wages Assistance (LWA) program, provided an additional \$300 per week to eligible claimants who certified that they are unemployed or partially unemployed due to disruptions caused by COVID-19. LWA payments were provided from the Federal Emergency Management Agency's (FEMA) Disaster Relief Fund.

LWA payments were made retroactively to eligible individuals for up to six weeks beginning with the week ending August 1 and ending with the week ending September 5, 2020. Claimants must have had a weekly benefit rate of at least \$100 in one of the following unemployment benefit programs to qualify for LWA payments: regular UI, PUA, PEUC, extended benefits, or work-share. Similar to the FPUC supplementary benefit, individuals are not required to file a separate application to receive LWA benefits.

**Mixed Earners Unemployment Compensation (MEUC).** ARPA created the MEUC program which provided an additional \$100 per week payment to individuals who received regular UI benefits and earned at least \$5,000 in net earnings from self-employment in the tax year prior to the individual's initial claim. Claimants for the MEUC additional benefit were required to supply necessary documentation to prove net self-employment earnings. MEUC benefits were payable for the week ending January 2, 2021 through week ending September 4, 2021.

**Full Federal Funding for States with Existing Work-Share Plans.** For states with a federally-approved work-share program, like Wisconsin, the CARES Act, as extended by the Continued Assistance Act, as extended by the American Rescue Plan Act, provided 100% federally-funded UI benefits through September 4, 2021. Under current law, Wisconsin's work-share program is funded entirely through the employer's reserve account.

Work-share programs, which are also called "short-term compensation programs" under federal law, are designed to provide a prorated unemployment benefit for employees of employers who voluntarily make an agreement with the state to reduce work hours instead of laying off workers. Work-share programs are described later in greater detail.

**Full Federal Funding of First Week of Regular UI.** The CARES Act provided temporary 100% federal funding of the first week of regular UI benefits through the week ending December 26, 2020, for states with no waiting week. Under the Continued Assistance Act, as extended by the American Rescue Plan Act, this provision was extended through the week ending September 4, 2021.

States may enter into an agreement with USDOL for this funding if the state law, or a waiver of state law, provides that compensation is paid to individuals for their first week of regular UI without a waiting week. An agreement implementing this provision of the CARES Act was signed by the DWD Secretary and USDOL on March 28, 2020. Subsequently, 2019 Wisconsin Act 185 took effect on April 17, 2020, and temporarily suspended the state's waiting week requirement with respect to benefit years that begin after March 12, 2020, and before February 7, 2021. Subsequent guidance provided to DWD by

USDOL determined that full federal funding for first-week benefits in Wisconsin would be available for the weeks beginning April 19, 2020, the first week following the enactment of Act 185. 2021 Wisconsin Act 4 extended the waiver of the state's waiting week requirement through the week ending March 13, 2021.

**Emergency Relief for Government Entities and Nonprofits.** The CARES Act, as subsequently extended by the Continued Assistance Act, provided federal funding to states to reimburse certain nonprofits, government agencies, and Native American tribes for 50% of the costs they incur to pay regular UI benefits from the week ending March 21, 2020, through the week ending April 3, 2021. The American Rescue Plan Act provided a reimbursement rate of 75% of the costs incurred to pay regular UI benefits from the week ending April 10, 2021, through the week ending September 4, 2021. Certain employers pay for unemployment benefits on a reimbursement basis, rather than through periodic contributions to the unemployment insurance trust fund. Reimbursable employers are discussed later in greater detail.

**Additional Unemployment Program Administrative Funding.** Under the Families First Act, Wisconsin's share of emergency administrative grants is \$18,914,800. Funding is allocated in two equal allotments of \$9,457,400, if certain criteria are satisfied. To receive the first allotment, the state is required to show that certain basic UI processing, accessibility and notification procedures were in place. To receive second allotment, the state is required to: (a) have at least a 10% increase in initial UI claims over the same rolling quarter in the previous calendar year; (b) commit to maintain and strengthen access to the UI system; and (c) demonstrate steps it has taken or will take to ease eligibility requirements and access to UI, including modifying or suspending work

search requirements, the waiting week, and non-charging of employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers.

According to USDOL guidance, the intent of the non-charging provision in the Families First Act is to encourage states to place certain COVID-19-related charges against the state's balancing account, instead of the employer's reserve account. Payments from the state's balancing account would not directly impact employers' reserve accounts or experience rating, which would adversely affect their contributory tax rates. 2019 Act 185 subsequently took additional action regarding the application of benefits charges. These provisions are discussed later in greater detail.

DWD received both funding allotments and deposited the amounts in a segregated subaccount in the state's UI trust fund. Families First Act funding may only be used for the administration of the UI program and is not available to pay benefits.

### **State Response to COVID-19 Pandemic**

2019 Act 185 and 2021 Act 4 ("Acts 185 and 4") made several modifications to state unemployment insurance law to increase flexibility of certain programs in response to the pandemic, as well as to accommodate federal law changes. Several provisions of Acts 185 and 4 reference Executive Order 72, which the Governor issued on March 12, 2020, declaring a public health emergency in Wisconsin.

Additionally, DWD in 2020 took administrative action to temporarily suspend certain UI benefit eligibility criteria related to work searches and persons being considered able and available to work during the COVID-19 pandemic. The administrative measures were intended to acknowledge the need for persons with known or

potential exposure to the virus, or exhibiting symptoms consistent with infection, to isolate from others in the interest of public health. These administrative measures are described in later sections.

**Waiting Week Suspension.** Acts 185 and 4, temporarily suspended the waiting week under current law with respect to benefit years that begin after March 12, 2020, through the week ending March 13, 2021. The Department was also required to seek the maximum amount of federal reimbursement for UI benefits that are payable for the first week of a claimant's benefit year as a result of these provisions.

Act 185 took effect on April 17, 2020, and as a result of subsequent guidance provided by USDOL, full federal funding was made available under the CARES Act for first-week benefits in Wisconsin for the weeks beginning April 19, 2020, the first week following the enactment of Act 185.

**Non-Charging Employers.** For employers subject to contribution financing, Acts 185 and 4 provide that 100% of the UI benefits for initial claims related to the public health emergency declared on March 12, 2020, by Executive Order 72 must be charged, not to the employer's account, but to the balancing account of the UI trust fund.

For reimbursable employers, Acts 185 and 4 provide that part of the UI benefits for initial claims related to the public health emergency declared on March 12, 2020, by Executive Order 72, will be charged to a DWD appropriation for employer paid interest and penalties, the remainder will be paid by the federal government. The federal government paid up to 75% of those benefits. The charging relief for reimbursable employers under Acts 185 and 4 was effective for state UI benefits paid for the period of March 15, 2020,

through March 13, 2021.

Following the passage of Acts 185 and 4, DWD promulgated emergency rules to clarify the treatment of benefit charging relief. Under those rules, DWD presumed that all benefit charges for the period of March 15, 2020, through March 13, 2021, are related to the public health emergency declared by Executive Order 72 so that benefit charges from this period could be recharged from employer accounts to the UI trust fund's balancing account and to DWD's interest and penalties ("I&P") appropriation for reimbursable employers. Act 4 specified that an employer was not required to submit a request to the Department for charging relief under this provision.

The I&P appropriation liability for reimbursable employers totaled \$69.7 million. After paying the full reimbursable employer liability in 2021-22, DWD's I&P appropriation closed the 2022 fiscal year with a \$49.2 million negative continuing cash balance, which is being brought into a positive condition using I&P revenues collected annually. Assuming revenue collections and annual expenditures continue at rates similar to prior years (\$3.7 million average annual revenues, \$1.0 million average annual expenditures), bringing the negative cash balance to a positive condition will take approximately 18 years.

**Work-Share Program Expansion.** Act 185 temporarily suspended certain requirements of work-share plans submitted by employers. Act 185 specified that, for work-share plans submitted on or after April 17, 2020, and before December 31, 2020: (a) work-share plans must cover at least two positions that are filled on the effective date of the work-share program, rather than at least the greater of 20 positions or 10% of employees in a work unit under the program's standard statutory provisions; (b) the maximum reduction in working hours under a work-share program may be either

60% of the normal hours per week of the employees included under a work-share plan, or any other maximum provided by federal law, whichever is greater, rather than a 50% typical reduction under state law; and (c) reduced working hours are to be apportioned equitably among employees in the work-share program. Some of these temporary changes were made permanent under 2021 Wisconsin Act 231. The work-share program as it exists in current law is described in a later section.

**Determining Availability for Suitable Work.** DWD promulgated an emergency rule under which DWD would consider persons available for suitable work if the claimant is perceived by an employer as exhibiting COVID-19 symptoms preventing a return to work, or the claimant is quarantined by a medical professional due to COVID-19 symptoms, or the claimant is instructed to stay home under local, state or federal government direction or guidance due to COVID-19. Additionally, one of the following would have to apply: (a) the employer has instructed the claimant to return to work after the employee no longer exhibits symptoms, after a set amount of time to see if the disease is present, or after the quarantine is over; (b) the employer has not provided clear instruction for the claimant to return to work; or (c) the claimant would be available for other work with another employer but for the perceived COVID-19 symptoms preventing a return to work or but for the quarantine.

The emergency rule was first promulgated in May, 2020, extended in February, 2021, and suspended on May 19, 2021, by vote of the Joint Committee for Review of Administrative Rules.

**Work Search Waiver.** DWD promulgated an emergency administrative rule providing that the existence of a public health emergency, as declared under state or federal law related to the SARS-CoV-2 novel coronavirus, constituted four

work search actions. The provision does not apply if federal law specifically requires a claimant to actively seek work to receive federal benefits. The emergency rule was first promulgated in May, 2020, extended in February, 2021, and finally suspended on May 19, 2021, by vote of the Joint Committee for Review of Administrative Rules.

### **Full Federal Funding of Extended Benefits.**

For states that qualify to receive both emergency administrative grant allotments under the Families First Act, and meet the required unemployment thresholds to trigger on the extended benefits (EB) program, the federal government will fund 100% of EB payments provided to individuals through March 14, 2021, thus eliminating the requirement that the state cover 50% of EB costs as is normally required.

EB allows unemployed individuals who exhaust their regular UI benefits and PEUC benefits to be eligible for up to an additional 13 weeks of benefits. Wisconsin triggered onto the EB program, effective May 17, 2020, due to an increase in the state's unemployment rate. Wisconsin met the criteria for turning off the EB program, effective November 7, 2020. Through the conclusion of the full federal funding period, the Department paid out \$9.4 million in federally-funded EB payments to claimants.

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## **Wisconsin Unemployment Insurance System**

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The following sections provide descriptions of the components of the state's unemployment insurance system.

### **Covered Employers and Employment**

Wisconsin's unemployment insurance law divides employers into three main categories, each

of which is treated differently in determining whether they are subject to the provisions of this law. All governmental units and Native American tribes are covered employers regardless of the number of people they employ or the size of their payroll. Nonprofit organizations that have a 501(c)(3) ruling from the IRS are covered employers if they employ at least four individuals for some portion of a day during at least 20 different weeks during the current or preceding year. In general, private, for-profit businesses must make unemployment insurance contribution (tax) payments if they pay wages of at least \$1,500 for employment during a calendar quarter, or if they employ at least one individual for some portion of a day during at least 20 different weeks, during either the current or preceding year.

In addition to these general provisions, certain types of businesses, such as agricultural concerns, those employing domestic workers, limited liability companies, and partnerships, are governed by specific coverage requirements. For example, a concern or individual employing domestic workers is a covered employer if wages of at least \$1,000 are paid for domestic labor during a calendar quarter, during the current or preceding year.

Prospective UI claimants may have recent employment with more than one entity or employer. Under unemployment insurance law, DWD's administrative method for determining an employer of an employee if there is more than one employing unit involves the consideration of a number of factors to determine which employer has the most significant relationship and rights by contract with the employee.

Employers that are not covered by Wisconsin's unemployment insurance law may file a written election with DWD to become a covered employer. Such an election is subject to DWD's approval and is in effect for at least two years. The state's law also contains a provision to ensure that the law remains in compliance with the minimum federal standards. This provision states that an

employer is covered by Wisconsin law if the employer is subject to the federal unemployment insurance law or if this coverage is required to obtain the full tax credit against the federal unemployment tax.

For an individual to be eligible for unemployment insurance benefits, the individual must have been employed in covered employment. In most situations, this employment will have been at a work location within the state's boundaries. In some cases, work for an employer may have been in more than one state or country. Special provisions of the state's unemployment insurance law are applied in these cases to determine whether the employment is covered under Wisconsin's law. In some circumstances, an employer may execute an agreement to designate either Wisconsin or another state as the state in which the employer's workers will be covered. Certain other types of service are specifically excluded from this coverage, and are listed in Appendix I.

### **Financing Unemployment Insurance Benefits**

Wisconsin and federal unemployment insurance laws establish several methods to finance the various benefit programs. The type of financing used varies both by type of employer and type of benefit. However, the payment of benefits to claimants and the amount of these benefits are independent of the type of financing used.

In general, benefits paid to claimants who have been employed by most governmental units and some of the nonprofit organizations in the state are financed through direct reimbursement from the employer. Benefits paid to claimants who have been employed by private, for-profit firms or the remaining governmental units and nonprofit organizations are financed through taxes these employers are required to pay to the state's unemployment trust fund. The level of taxes an individual employer is required to pay depends on the size of the employer's taxable payroll and the employer's past unemployment experience. Employers with

considerable unemployment experience are required to pay higher taxes than those with lesser levels of unemployment experience and the same taxable payroll.

Wisconsin's unemployment insurance law establishes two types of financing for unemployment insurance benefits. Private, for-profit employers covered by the unemployment insurance law are required to use contribution financing. Nonprofit organizations, governmental units other than the state, and Native American tribes have the option of choosing either contribution or reimbursement financing. The state must use reimbursement financing. Approximately 40% of nonprofit organizations and almost all governmental units have elected to use reimbursement financing.

Employers covered by the state unemployment insurance law are required to submit quarterly wage and contribution reports to DWD. The wage data includes employee names and Social Security numbers and total gross wages paid during the quarter. In addition, a quarterly contribution report includes wage and tax information. (Employers may file a combined contribution wage report. Reimbursement employers do not pay a quarterly tax, but still must file the quarterly reports.) The due dates for contribution and wage reports are as follows: (a) first calendar quarter -- April 30; (b) second calendar quarter -- July 31; (c) third calendar quarter -- October 31; and (d) fourth calendar quarter -- January 31. Wage and contribution reports may be submitted electronically, through the internet, or on paper reports. All employer agents that submit wage and contribution reports for employers, as well as each employer of 25 or more employees that elects not to use an employer agent for filing, must file electronically in a manner and form prescribed by DWD unless the requirement is waived by the Department.

The Department may assess two types of penalties for late wage reporting. A late filing fee of \$50 can be charged if the employer files its quarterly wage report within 30 days after the due date.

A non-filing fee of the greater of \$100 or \$20 per employee can be charged for a quarterly wage report filed more than 30 days after the due date. Employers and employer agents that do not file quarterly wage reports electronically, in a manner and form prescribed by DWD, can be assessed a penalty of \$20 per employee. Employers are subject to a penalty of \$25 per report for not filing a contribution report in a prescribed format. Employer agents are assessed a penalty of \$25 for each employer whose contribution report is not filed in a prescribed format.

Each employer agent is required to pay all contributions for each employer represented by the agent using electronic funds transfer. Individual employers with total net contribution payments of at least \$10,000 for any 12-month period ending on June 30 are required to pay all future contribution payments by electronic funds transfer, beginning with the next calendar year. Any employer or employer agent that is required to make contribution payments by an electronic transfer and that makes such payments by a method inconsistent with that prescribed by the Department is subject to a penalty equal to the greater of \$50 or 0.5% of the total contributions improperly paid. An employer that is delinquent in making a required contribution payment is subject to a monthly interest rate equal to a 9% annualized rate or to 2% more than the prime rate as published in the Wall Street Journal as of September 30 of the preceding year, whichever is greater. DWD may waive or decrease the interest charged to employees in limited circumstances as prescribed by administrative rule.

### **Contribution Financing**

Employers subject to contribution financing are required to make contribution payments to the unemployment insurance trust fund. These contribution payments must be paid by all covered employers regardless of the nature of the business. However, the amount of these payments will reflect fluctuations in the level of employment. The specific payments made by a business are

determined by applying the employer's combined contribution and solvency rates to its taxable payroll. An employer's taxable payroll is equal to the first \$14,000 in wages paid to each employee working in covered employment.

The employer's contribution rate and, indirectly, its solvency rate, are based on the employer's unemployment experience. This experience is reflected in an employer's reserve account balance in the unemployment reserve fund. The reserve account balance is the net of all tax payments less benefit charges for that employer, which includes tax payments made through July 31 and benefit payments made through June 30. To determine the applicable contribution rates, each June 30 the balance in an employer's reserve account is calculated and divided by the employer's taxable payroll for the preceding four calendar quarters. This computation yields a "reserve percentage," which serves as an indicator of the status of the employer's reserve account in relationship to the size of the employer's taxable payroll. A positive reserve percentage indicates that an employer has paid more in contributions than its employees have drawn in benefits, while a negative reserve percentage indicates that the opposite is true.

To determine an employer's contribution rate, the employer's reserve percentage is then applied to the statutory rate schedule. As an employer's reserve percentage serves as a relative indicator of the employer's unemployment experience, the employer's contribution rate will increase as the employer lays off an increasing number of people. The required contribution payment an employer must make is calculated by multiplying the employer's taxable payroll by the employer's contribution rate. This payment is then credited to the employer's reserve account.

Each employer's reserve account is maintained to keep track of the employer's payment and unemployment experience and does not represent a portion of the reserve fund that is earmarked for the former employees of each employer. Most of

the benefits paid to an employer's laid-off employees are charged against the employer's reserve account, although the benefits are actually paid from the UI trust fund's reserve fund.

The contribution rate paid by an employer for a given year may be affected by two provisions of the state's unemployment insurance law. First, for an employer whose reserve percentage equals or exceeds zero (positive reserve percentage), current law limits to 1% any increase in the contribution rate from one calendar year to the next. Employers with a reserve percentage of less than zero (negative reserve percentage) cannot have an increase in the contribution rate of more than 2% from one year to the next. (The next highest rate in the statutory table is used if there is no rate exactly 1% or 2% higher.) Therefore, any increase in the contribution rates paid by an employer from one calendar year to the next is limited, even though the employer's reserve percentage might warrant a larger increase.

Second, employers are allowed to make voluntary contributions to their reserve accounts for the purpose of increasing their reserve percentage which, in turn, would lower the contribution rate. These payments must be received by the Department no later than November 30. However, voluntary contributions can be used to lower the contribution rate only to the next lowest level in the rate schedule. In addition, an employer cannot make a voluntary contribution for five years after having written off a negative balance in the employer's reserve account to the UI trust fund's balancing account. Any contributions in excess of the amount required to reduce the employer's rate to the extent permitted is applied against any outstanding liability or, in the absence of any liability, is to be refunded or used as a credit against future contributions payable by the employer.

Employers may make voluntary contributions to their reserve account if employee layoffs were a result of a catastrophic event, provided the employer was not primarily responsible for the

catastrophic event, in which the employer suffered physical damage to its business. The voluntary contribution can be used as a credit to increase the employer's reserve percentage to no greater than the reserve percentage that would have applied to the employer as of the next computation date had damage not caused the employer to lay off its staff. In order to claim the credit, the voluntary contribution must be paid to the Department by November 30.

For new employers and existing employers first subject to contribution payments, the basic contribution rate is 2.5% for the first three calendar years for which they make contributions. In addition, new employers also pay a solvency rate of 0.55% for employers with taxable payrolls under \$500,000 and 0.75% for employers with taxable payrolls of \$500,000 or more in 2023. However, new employers with a taxable payroll in excess of \$10 million may elect to pay a contribution rate of 1% of taxable payroll. A further exception is made for new employers in the construction industry, who are assigned rates for the first three calendar years equal to the average rate for all construction industry employers. The rate for new employers in the construction industry is recalculated annually. Once an employer has been subject to contribution payments for three calendar years, the employer's contribution rate is computed in the normal manner and is based on the employer's unemployment experience.

All employers who make regular contributions to the unemployment insurance reserve fund are also required to make solvency contributions. These payments are credited to the UI trust fund's balancing account, not the individual employer's reserve account, so that solvency contributions do not affect the employer's reserve percentage. The solvency contribution rate for each employer is determined by linking the employer's contribution tax rate to the appropriate solvency tax rate in the statutory rate schedule.

Under current law, there are four different sets

of contribution and solvency rate schedules. In addition, each solvency rate schedule distinguishes between employers with taxable payrolls of less than \$500,000 and employers with taxable payrolls of \$500,000 or more. The specific rate schedule that applies in a given year depends upon the balance in the state's unemployment reserve fund on the prior June 30. Table 2 shows the statutory contribution and solvency tax rate schedules. Schedule A is effective if the balance in the state's unemployment reserve fund is less than \$300 million. Schedule B is in effect if the balance in the fund is at least \$300 million but less than \$900 million. Schedule C applies if the balance in the fund is at least \$900 million, but less than \$1.2 billion, and Schedule D applies if the balance is at least \$1.2 billion. These schedules provide for lower employer contributions for years in which the fund's balance is relatively high.

Based on the balance in the state's UI trust fund as of June 30, 2022, Schedule D applies for unemployment insurance taxes due for calendar year 2023. As a result, the contribution rate schedule in effect ranges from 0.00% to 10.70%, while the solvency rate schedule ranges from 0.00% to 1.30%. The combined contribution and solvency unemployment insurance rate schedule ranges from a minimum of 0.00% to a maximum of 12.00%.

As noted, solvency contributions are credited to the UI trust fund's balancing account rather than the individual employer's reserve account. In certain cases, the fund's balancing account is used to pay benefits that cannot be charged to an individual employer's reserve account. For example, when benefits exceed the contributions paid by an employer who has gone out of business, the unpaid amount is charged to the balancing account. The balancing account is also used to offset individual employer write-offs. Under current law, negative June 30 unemployment reserve account balances in excess of 10% of the employer's annual payroll can be written off (deleted) and the liability shifted to the balancing account.

Employers make contribution payments to the UI trust fund on a quarterly basis. The employer uses the contribution report to determine liability through the following steps:

- a. Listing the total covered wages paid to employees in the previous quarter.
- b. Deducting wages paid to employees after the first \$14,000 per year per employee.
- c. Multiplying the remaining taxable payroll by its total contribution rate to get the total contribution liability.

In order to illustrate the computation of contribution and solvency liability, a detailed example is provided in Appendix II.

As previously described, an employer has one month after the end of each quarter to make the required contribution payment, and if the employer does not meet the due date, late filing fees are assessed and interest begins accruing. In addition, if an employer neglects or refuses to pay any debt after DWD has made a request for payment, then the Department may collect the debt and any associated expenses by using the powers of levy and distraint on any property owned by the employer.

Any employer in good standing that has a first quarter contribution liability of \$1,000 or more may defer payment of 60% of its first quarter contribution liability, without interest, and contribute the deferred liabilities under a prescribed formula over the remaining quarters along with full payments for each of those subsequent quarters. All other deferred first-quarter payments must be made in full by the time due, or the first-quarter liability becomes delinquent and begins accruing interest from April 30. If an employer fails to pay at least 40% of the first-quarter liability on or before April 30 of the year in which the liability accrues, the employer cannot defer payment of the

**Table 2: Employers' Contribution and Solvency Rate Schedules**

<u>Reserve Percent</u>	<i>SCHEDULE A</i>			<i>SCHEDULE B</i>			<i>SCHEDULE C</i>			<i>SCHEDULE D</i>		
	<u>Basic Rate</u>	<u>Solvency Rate</u>		<u>Basic Rate</u>	<u>Solvency Rate</u>		<u>Basic Rate</u>	<u>Solvency Rate</u>		<u>Basic Rate</u>	<u>Solvency Rate</u>	
	All Employers	Employers Under \$500,000	Employers Over \$500,000									
15.0% or more	0.07%	0.20%	0.63%	0.00%	0.05%	0.10%	0.00%	0.00%	0.05%	0.00%	0.00%	0.05%
10.0% to 15.0%	0.07	0.20	0.63	0.00	0.25	0.30	0.00	0.22	0.25	0.00	0.12	0.15
9.5% to 10.0%	0.25	0.20	0.80	0.15	0.25	0.35	0.15	0.22	0.25	0.05	0.22	0.25
9.0% to 9.5%	0.33	0.20	0.90	0.25	0.25	0.40	0.25	0.22	0.25	0.15	0.22	0.25
8.5% to 9.0%	0.52	0.40	0.90	0.45	0.40	0.50	0.45	0.30	0.35	0.35	0.30	0.35
8.0% to 8.5%	0.59	0.50	1.00	0.60	0.40	0.55	0.60	0.30	0.40	0.50	0.30	0.40
7.5% to 8.0%	0.66	0.60	1.10	0.70	0.40	0.60	0.70	0.30	0.45	0.60	0.30	0.45
7.0% to 7.5%	0.77	0.70	1.20	0.85	0.45	0.65	0.85	0.35	0.50	0.75	0.35	0.50
6.5% to 7.0%	1.03	0.80	1.20	1.10	0.50	0.70	1.10	0.35	0.55	1.00	0.35	0.55
6.0% to 6.5%	1.28	0.90	1.30	1.40	0.55	0.75	1.40	0.40	0.60	1.30	0.40	0.60
5.5% to 6.0%	1.62	1.00	1.40	1.75	0.65	0.80	1.75	0.45	0.65	1.65	0.45	0.65
5.0% to 5.5%	1.96	1.10	1.50	2.10	0.70	0.85	2.10	0.50	0.70	2.00	0.50	0.70
4.5% to 5.0%	2.30	1.10	1.60	2.45	0.75	0.90	2.45	0.55	0.75	2.35	0.55	0.75
4.0% to 4.5%	2.64	1.20	1.70	2.80	0.80	0.90	2.80	0.60	0.75	2.70	0.60	0.75
3.5% to 4.0%	2.98	1.30	1.80	3.25	0.85	0.90	3.25	0.60	0.75	3.15	0.60	0.75
0.0% to 3.5%	3.37	1.40	1.90	3.80	0.85	0.90	3.80	0.60	0.75	3.70	0.60	0.75
0.0% to -1.0%	5.30	1.30	1.30	5.30	1.30	1.30	5.30	1.10	1.10	5.30	1.10	1.10
-1.0% to -2.0%	5.80	1.30	1.30	5.80	1.30	1.30	5.80	1.10	1.10	5.80	1.10	1.10
-2.0% to -3.0%	6.30	1.30	1.30	6.30	1.30	1.30	6.30	1.10	1.10	6.30	1.10	1.10
-3.0% to -4.0%	6.80	1.30	1.30	6.80	1.30	1.30	6.80	1.10	1.10	6.80	1.10	1.10
-4.0% to -5.0%	7.30	1.30	1.30	7.30	1.30	1.30	7.30	1.20	1.20	7.30	1.20	1.20
-5.0% to -6.0%	7.80	1.30	1.30	7.80	1.30	1.30	7.80	1.25	1.25	7.80	1.25	1.25
-6.0% to -7.0%	8.50	1.30	1.30	8.50	1.30	1.30	8.50	1.30	1.30	8.50	1.25	1.25
-7.0% to -8.0%	9.25	1.30	1.30	9.25	1.30	1.30	9.25	1.30	1.30	9.25	1.30	1.30
-8.0% to 9.0%	10.00	1.30	1.30	10.00	1.30	1.30	10.00	1.30	1.30	10.00	1.30	1.30
-9.0% or less	10.70	1.30	1.30	10.70	1.30	1.30	10.70	1.30	1.30	10.70	1.30	1.30

Schedule A is effective when the UI trust fund balance is less than \$300 million.

Schedule B is effective when the UI trust fund balance is \$300 million but less than \$900 million.

Schedule C is effective when the UI trust fund balance is \$900 million but less than \$1.2 billion.

Schedule D is effective when the UI trust fund balance is \$1.2 billion or more.

balance of the liability. An employer that elects to defer payment of first quarter contributions is required to file contribution reports and wage reports electronically.

Interest charged on an unpaid balance is deposited in a DWD appropriation account for interest and penalty payments. A detailed example involving a hypothetical employer and illustrating how contribution financing works over a period of time is provided in Appendix III.

### **Reimbursement Financing**

Reimbursement financing is used by almost all governmental units and approximately 40% of nonprofit, nongovernmental organizations. Under Wisconsin's unemployment insurance law, the state is required to use reimbursement financing. Other governmental units must use reimbursement financing unless they elect to use contribution financing. Nonprofit, nongovernmental organizations and Native American tribes may elect to use reimbursement financing instead of contribution financing. Nonprofit employers that are nongovernmental entities are required to post an assurance of reimbursement with the treasurer of the unemployment insurance trust fund. The assurance required must equal at least 4% of the greater of the employer's taxable wages in the past calendar year or the employer's anticipated payroll for the current year, and can be in the form of a surety bond, letter of credit, certificate of deposit, or other nonnegotiable instrument of fixed value. Reimbursement financing employers must also file the quarterly tax and wage reports.

Employers that use reimbursement financing maintain separate accounts in the unemployment insurance trust fund. Benefits paid to laid-off employees are charged to the account and the employers make reimbursement payments to the account for those benefits. Whenever an employer's reimbursement account has a negative balance at the close of a calendar month, the employer is sent a statement showing unemployment insurance

benefits paid during the month to current and former employees who are now unemployed. Reimbursement payments are due 20 days after the statement date.

Reimbursement employers are considered delinquent if they do not pay the amount due on or before the due date. If delinquent, interest is charged at the annualized rate of 9% or 2% more than the prime rate as published in the Wall Street Journal as of September 30 of the preceding year, whichever is greater. When a nonprofit organization that has filed an assurance of reimbursement becomes delinquent, the Department must exhaust all collection methods at its disposal before liquidating the assurance of payment. For governmental units, excessive delinquent payments can be recovered by withholding any aid payments the units are entitled to receive from the state.

Certain nonprofit employers that elect reimbursement financing are subject to an assessment for payment of uncollectible benefit reimbursements from out-of-business employers if the amount of uncollectible benefit payments exceeds \$5,000. The total annual assessment against all nonprofit employers is limited to \$200,000, with no assessment for any employer that would be charged an amount less than \$20 for a calendar year. Within the UI trust fund's balancing account, \$2,000,000 is set-aside for charging of benefits financed by reimbursable employers in cases of identity theft. In lieu of or in addition to assessing nonprofit employers, and so long as the balance of the set-aside does not fall below \$1,750,000, the Department may apply amounts from the set-aside to amounts determined to be uncollectible. As of August 1, 2022, the balance of the set-aside was \$1,227,537.

Reimbursement financing presents a more direct link between benefits paid to an employer's former employees and the payments that the employer is required to make. This type of financing, therefore, generally does not have implications for

the solvency of the state's unemployment insurance system.

## **Eligibility for Unemployment Insurance Benefits**

To be eligible for regular unemployment insurance benefits, an individual must have been employed in covered employment either totally or partially, be able and available for work, be conducting a reasonable search for suitable work, be registered for work with a public employment office, and provide information and job application materials as requested by DWD and participate in workshops, trainings and other similar re-employment services as required by the Department.

Wisconsin's unemployment insurance law includes several provisions that may render some individuals ineligible to receive some or all of the regular benefits that they would otherwise receive. These provisions are listed and described below:

**1. Discharge for Misconduct or Substantial Fault.** The Department uses a two-tier standard to determine whether claimants who are discharged qualify for UI benefits. A claimant will be disqualified if they are discharged for misconduct or for substantial fault connected with the employment. If it cannot be determined that the employee was discharged for misconduct, a disqualification under substantial fault is considered by the Department. The burden for establishing misconduct or substantial fault is on the employer.

The definition of "misconduct" is one or more actions or conduct showing such willful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior that an employer has a right to expect of their employees, or in carelessness or negligence of such degree or recurrence as to manifest culpability, wrongful intent, or evil design of equal severity to such disregard, or to show an intentional and substantial disregard of an employer's

interests, or of an employee's duties and obligations to their employer. In addition, "misconduct" actions include:

a. A violation of an employer's reasonable written drug and alcohol policy;

b. A theft of an employer's property or services, theft of currency of any value, felonious conduct connected with the claimant's employment, or intentional or negligent conduct by a claimant that causes substantial damage to their employer's property;

c. A conviction of a crime or other offense subject to civil forfeiture, while on or off duty, if the conviction makes it impossible for the claimant to perform the duties that the claimant performs for the employer;

d. One or more threats or acts of harassment, assault, or other physical violence instigated by a claimant at the employer's workplace;

e. Certain absenteeism or excessive tardiness by an employee in violation of a policy of the employer, if the employee does not provide to their employer both notice and one or more valid reasons for the absenteeism or tardiness;

f. Falsifying the employer's business records; or

g. A willful and deliberate violation of a written and uniformly applied standard by a claimant for an employer that is licensed or certified by a governmental agency, if the violation would cause the employer to be sanctioned or to have its license or certification suspended by the agency.

The definition of "substantial fault" includes those acts or omissions of an employee over which the employee exercised reasonable control and that violate reasonable requirements of the employee's employer. Substantial fault essentially means that if an employer establishes a reasonable

job policy to which an employee can conform, failure to conform constitutes substantial fault. Substantial fault does not include: (a) minor infractions of the employer's rules, unless the employee repeats the violation after receiving a warning; (b) unintentional mistakes made by the employee; or (c) not performing work because the employee lacks skill, ability, or was not supplied equipment.

An employee who is discharged for misconduct or substantial fault connected with their employment will have total entitlement for benefits reduced with respect to wages from the discharging employer and is ineligible for benefits based on work for other employers unless they requalify. In order to requalify, seven weeks must elapse since the end of the week in which the discharge occurs and the employee must earn wages in subsequent covered employment equal to at least 14 times the weekly benefit rate they would have received if termination had not occurred. For purposes of determining total entitlement for those discharged for misconduct, the wages paid by the employer that terminates the employment are excluded from base-period wages if the employee requalifies for benefits. As a result, the discharging employer is not liable for requalified employee benefits. However, in determining total entitlement for those discharged for substantial fault, the wages paid by the employer that terminates the employment may be used in determining the claimant's amount of base-period wages if the employee requalifies for benefits. If the claimant requalifies, the employer is not charged for any benefit payments, but instead these benefits will be charged to the UI trust fund's balancing account.

**2. Disciplinary Suspension.** A suspension is usually considered for good cause when it is reasonable discipline in response to inappropriate behavior or a rule violation. A suspension is considered reasonable when it can be established that the inappropriate behavior was within the employee's

ability to control or that the employee was responsible for a work rule violation. An employee who is suspended for good cause connected with their employment is ineligible for benefits until three weeks have elapsed since the end of the week in which the suspension occurs unless the suspension ends sooner.

**3. Voluntary Termination of Employment.** Under most circumstances, an employee who voluntarily terminates their employment with an employing unit is ineligible to receive any benefits unless they requalify. An individual whose employer grants the individual's voluntary request to indefinitely reduce the number of hours they work may be treated as voluntarily terminating employment. In order to requalify, the employee must earn wages at subsequent employment equal to at least six times the weekly benefit rate that would have been received had the termination not occurred. The benefits based on wages paid by the employer from whom the claimant voluntarily terminates employment are charged to the UI trust fund's balancing account.

There are a number of exceptions to the general requalification requirement for employees that quit. Current exceptions include:

- a. Termination with good cause attributable to the employer, including sexual harassment where the employer knew or should have known but failed to take corrective action;
- b. Termination because the employee or employee's family member had a verified illness or disability necessitating care for a time period longer than the employer was willing to grant leave;
- c. Accepting a layoff in lieu of another employee;
- d. Termination due to certain transfers to another work shift;

e. Termination due to domestic abuse or threats to personal safety of the employee or employee's family member if the employee has acquired a protective order against the harasser, acquired a report by a law enforcement agency documenting the abuse, or concerns are voiced by a health care professional or an employee of a domestic violence shelter;

f. Termination of employment due to honorable discharge from military service;

g. Termination to accept another job in covered employment if that job offers the employee equal or greater pay, equal or more hours, the opportunity for significantly longer-term employment, or if it is closer to the employee's home (applies regardless of whether the employee is working at a part-time job or whether the claimant earns a certain amount of wages in the subsequent work);

h. Termination with good cause and within the first 30 calendar days after starting work, but only if the employee could have originally refused to accept employment at the new job and still have collected UI benefits as a result of the new job not being deemed suitable work, as described in the next section; or

i. Termination if the employee's spouse is an active duty member of the U.S. Armed Forces who is required to relocate by the Armed Forces to a location that is impracticable for the employee to commute to work.

**4. Suitable Work.** The suitable work disqualification is for refusing an offer of suitable work made by a prospective employer and received by a claimant. The job offer must be a bona fide attempt to secure the individual's service. It must be an unconditional offer of work that the individual has the opportunity to accept or reject, and all the terms of the job such as wage, hours, duties, and other information must be explained or available.

The Department uses a tiered definition of suitable work, tying a refusal of an offer of work to the length of time the claimant has been unemployed. During an initial six-week canvassing period, suitable work means work that is not at a lower grade of skill than one of the claimant's most recent jobs and that pays at least 75% of what the claimant recently earned at one of the claimant's most recent jobs. With respect to the seventh week after the employee became unemployed and any week thereafter, suitable work means any work that the employee is capable of performing, regardless of whether the employee has any relevant experience or training, that pays wages that are above the lowest quartile of wages for similar work in the labor market area in which the work is located.

A claimant may refuse work for good cause and maintain eligibility for unemployment insurance benefits. An employee has good cause only if DWD determines that the failure to accept suitable work is related to the employee's personal safety, the employee's sincerely held religious beliefs, an unreasonable commuting distance, or if the employee had another compelling reason that would have made accepting the offer unreasonable.

If it is determined that an employee without good cause fails to accept suitable work when offered or fails to return to work when recalled, the employee is ineligible to receive any benefits unless they requalify by earning in subsequent employment six times the weekly benefit that would have been received had the refusal of suitable work not occurred.

**5. Unable/Unavailable for Work.** In general, an employee is ineligible for unemployment insurance benefits for any week in which the employee is, with due notice, called by the employer to report for work and is unavailable or unable to perform more than 16 hours of scheduled work. If the employee is unavailable or unable to work, but the scheduled work is 16 or fewer hours for the

week, the partial benefits formula is applied to the wages that could have been earned to determine the employee's unemployment insurance benefits. If an employee is terminated or suspended by an employer, or is on a leave of absence, because the employee is unavailable or unable to perform work, the employee is ineligible for benefits. However, for the first week of separation, if 16 hours or less of scheduled work are missed, unemployment insurance benefits will be determined by applying the partial benefits formula to wages earned and those that could have been earned.

**6. Work Search.** Individuals are required to perform at least four work search actions that constitute a reasonable search as prescribed by rule of the Department. In addition, the Department may, by administrative rule, require an individual to take more than four reasonable work search actions in any week or waive work search requirements under certain stated conditions. A claimant is ineligible to receive benefits for any week for which there is a determination that the claimant failed to conduct a reasonable search for suitable work and the Department has not waived the search requirement.

From 2004 until June 14, 2015, the Department, by administrative rule, waived a claimant's work search requirement if the claimant was laid off but there was a reasonable expectation of reemployment of the claimant by that employer. As of July 14, 2015, the Department altered the administrative rule to provide a work search waiver only if the claimant is currently laid off from employment but there is a reasonable expectation that the claimant will be returning to employment within a period of eight weeks, with a possibility of one additional four-week extension. 2017 Wisconsin Act 370 codified in statute the work search requirements that were previously only prescribed by rule of the Department.

If, with some exceptions, a claimant's last employer was a "temporary help company," the claimant must contact that employer weekly for an

assignment or the claimant is considered to not have conducted a reasonable search for suitable work. If the claimant does contact the temporary help company, the claimant will have satisfied one of the required weekly work search actions.

**7. Drug Testing and Treatment.** 2015 Wisconsin Act 55 required DWD to create two drug testing and treatment programs tied to unemployment insurance: a pre-employment drug testing program and an occupational drug testing program.

Under the pre-employment drug testing program, an employer may voluntarily submit to DWD the results of a test for the unlawful use of controlled substances that was conducted on an individual as pre-employment screening or notify DWD that an individual declined to submit to such a test as a condition of employment. If an individual tests positive for controlled substances without a valid prescription for the drug, or if the individual refuses to take the test, there is a rebuttable presumption that the claimant refused to accept suitable work. If an employer reports that an individual refused to submit to a drug test or tested positive for a controlled substance, the claimant would be ineligible for UI benefits until the individual earns wages in subsequent employment equal to at least six times the individual's weekly benefit rate. A claimant who tests positive for a controlled substance as part of a pre-employment screening may maintain eligibility for UI benefits for each week in which the claimant is in full compliance with a state-sponsored substance abuse treatment program and a state-sponsored job skills assessment.

The Department adopted the necessary emergency rules to govern the pre-employment program as DWD 131, effective April 26, 2016. Chapter DWD 131 became a permanent rule May 1, 2017. Through September 30, 2022, the Department has indicated that 112 reports have been filed by employers regarding an individuals' failure of a pre-employment drug test and that 60 reports have

been filed by employers regarding an individuals' refusal to take a pre-employment drug test.

Under the occupational drug testing program, when a claimant applies for UI benefits, DWD would determine whether the claimant is an individual for whom suitable work is only available in an occupation that regularly conducts testing. If the claimant's only suitable work is in an occupation that regularly conducts drug testing, as determined by USDOL and DWD rules, DWD must screen the claimant to determine whether the claimant should be required to submit to a drug test. The results of the initial screening must provide a reasonable suspicion that the claimant has engaged in the unlawful use of controlled substances to require that the claimant submit to a drug test. If the claimant refuses to submit to a drug test or tests positive for a controlled substance for which the claimant does not have a valid prescription, the claimant is ineligible for UI benefits. A claimant who tests positive may maintain eligibility for UI benefits for each week in which they are in full compliance with a state-sponsored substance abuse treatment program and a state-sponsored job skills assessment.

Final USDOL rules regarding which occupations can be subject to drug testing became effective September 30, 2016. The list of occupations in the 2016 final rule was limited to certain specifically listed occupations and those in which drug testing is required by federal or state law. U.S. House Joint Resolution 42, signed by the President, nullified these rules effective March 31, 2017.

On November 5, 2018, USDOL published a Notice of Proposed Rulemaking to reissue the rule identifying occupations that regularly conduct drug testing. Final USDOL rules regarding which occupations can be subject to drug testing became effective November 4, 2019. In this final rule, the USDOL expands the consideration of what occupations regularly conduct drug testing by including those occupations for which each state has a

factual basis for finding that employers in that state conduct drug testing as a standard eligibility requirement for employing or retaining employees in the occupation. On January 16, 2020, the UIAC approved a draft scope statement for the administrative rule related to occupational drug testing. However, as of January, 2023, DWD has not yet promulgated rules to implement occupational drug testing.

**8. Labor Disputes.** An employee who is unemployed due to a strike or other bona fide labor dispute, other than a lockout, is ineligible for benefits for any week in which the strike or labor dispute is in active progress in the establishment in which they were employed. A lockout is defined as the barring of one or more employees from their employment in an establishment by an employer as part of a labor dispute, which is not directly subsequent to a strike or other job action or which continues after the termination of a strike or other job action.

**9. Located Outside the U.S. or Canada.** An individual is generally not considered available for work in any week in which the individual is located in a country other than the United States or Canada for more than 48 hours.

**10. Educational (School-Year) Employees.** A school-year employee who performs services in an instructional, research, or principal administrative capacity is ineligible for benefits based on services for any unemployment occurring:

a. During the period between two successive academic years or terms if the school-year employee performed such services in the first year or term and if there was a reasonable assurance that they would be reemployed in the same capacity by the same type of employer in the second academic year or term.

b. During the period between two regular but not successive terms under an agreement between the employer and school-year employee which

provides for such a period, if the school-year employee performed such services in the first term and there was reasonable assurance that they would be reemployed in the same capacity by the same type of employer in the second academic year or term.

c. During an established and customary vacation period or holiday recess if the school-year employee performed such services in the period immediately before the vacation period or holiday recess and if there was reasonable assurance that they would perform services for the same type of employer in the period immediately following the vacation period or holiday recess.

The restrictions under items (a) and (c) above also apply to school-year employees who perform services that are not in an instructional, research, or principal administrative capacity. Item (b) does not apply to these employees.

"School-year employee" is defined as an employee of an educational institution or an educational service agency or an employee of a governmental unit, Native American tribe, or nonprofit organization that provides services to, or on behalf of, an educational institution, who performs services under an employment contract that does not require services be performed on a year-round basis. Employees hired to work for the entire year rather than for an academic year are excluded from the benefit eligibility restrictions. An educational institution is a school that provides education and/or training, maintains a regular faculty and curriculum, and has a regular organized body of students in attendance. An educational service agency is a government entity or tribal unit established and operated exclusively for the purpose of providing services to one or more educational institutions.

**11. Approved Training Exception.** If an individual is enrolled in training approved by the Department, DWD may not reduce benefits or disqualify an individual for the following reasons: (1)

suspension or termination because of unavailability or inability to perform work; (2) suspension or termination for being absent 16 hours or less in the first week of leave; (3) failure to be available for work; (4) failure to search for suitable work; (5) inability to perform work that the employee terminated due to illness or disability of an immediate family member; (6) unavailability for suitable work; or (7) voluntary termination of employment for good cause.

The types of programs that may be considered approved training are:

a. A course of vocational training or basic education that is a prerequisite to such training in which an individual is enrolled if: (1) the course is expected to increase the individual's opportunities to obtain employment; (2) the course is given by a Wisconsin Technical College System school or other DWD-approved institution; (3) the individual is enrolled full-time as determined by the institution; (4) the course does not grant substantial credit leading to a bachelor's or higher degree; and (5) the individual is attending regularly and making satisfactory progress in the course.

b. A program administered by the Department for the training of unemployed workers, other than the youth apprenticeship program.

c. The plan of any state for training under the federal Trade Act.

d. A plan for training approved under the Workforce Innovation and Opportunity Act or another federal law that enhances job skills.

The Department cannot deny benefits for a voluntary termination of work if the individual leaves unsuitable work that was temporarily entered into during a break in training or approved training to enter or continue training upon the commencement of training. Benefits cannot be denied if the individual left on-the-job training within 30 days

after commencing training because the training did not meet the requirements of the federal Trade Act.

Requirements to requalify for benefits, as provided under the provisions for voluntary termination of work and failure to accept suitable work, do not apply while the individual is enrolled in training approved under the federal Trade Act, the Workforce Innovation and Opportunity Act, or another federal law that enhances job skills. DWD must charge the fund's balancing account for the cost of benefits paid to an individual that would otherwise be chargeable to the reserve account of an employer that is subject to the contribution requirements if the individual receives benefits while in approved training. To qualify for an approved training course, the Department may require a certification from the training institution showing the individual's attendance and progress in the course.

### **Determination of Unemployment Insurance Benefits**

In order to claim unemployment insurance benefits, an unemployed worker must first notify DWD during that week or within seven days after the close of that week by filing on the internet. Subsequently, DWD will determine the claimant's eligibility and weekly benefit rate based on quarterly wage record reports filed by each employer. An employer or a claimant can question the Department's eligibility determination and computation of the weekly benefit rate.

If an individual meets the qualifying requirements, they receive unemployment insurance benefits based on wages paid in the base period.

**Base Period.** "Base period" means the period that is used to compute an employee's benefit rights and generally consists of the first four of the five most recently completed calendar quarters preceding an employee's benefit year. An

employee who does not qualify for benefits using this base period can use an alternative base period consisting of the four most recently completed calendar quarters preceding the employee's benefit year. Wages used to establish eligibility under this alternative base period cannot be used to establish a future regular benefit year.

A claimant must have been paid 35 times their weekly benefit rate in the base period, including wage payments that are four times the weekly benefit rate in quarters other than that in which the highest wage payments occur.

**Weekly Benefit Rate.** The weekly benefit rate is equal to 4% of wages paid in the calendar quarter in which the highest wages were paid to the claimant up to a maximum weekly benefit rate of \$370. The minimum weekly benefit rate is \$54. The maximum benefits available are the lesser of 26 times the weekly benefit rate or 40% of total base-period wages.

The maximum weekly benefit rate was increased from 1992 through 2003, and again in 2006, 2007, 2009 and 2014.

No benefits are payable to a claimant who is paid less than \$1,350 in the high quarter, which is the amount necessary to generate a minimum weekly benefit payment.

**Benefit Year.** "Benefit year" means the 52-week period beginning with a valid new claim week for which an employee's benefit rights are computed. An employee is authorized to establish a benefit year whenever: (a) the employee earns sufficient wages both in the high quarter and outside the high quarter and is eligible to receive benefits; (b) has experienced at least a 25% reduction in hours worked in one week as compared to the average weekly hours worked for the preceding 13 weeks; or (c) expects to be eligible to receive benefits during the next 13 weeks. As noted, the claimant must wait one week prior to receiving unemployment insurance benefits.

**Table 3: Wages Paid to Hypothetical Claimant in First Four of Last Five Quarters**

Calendar Quarter	Earnings
Quarter 1	\$4,000
Quarter 2	4,200
Quarter 3	4,500
Quarter 4	<u>11,800</u>
	\$24,500

**Benefit Computation Example.** Table 3 includes information to illustrate the method of determining the unemployment insurance benefits that a hypothetical claimant would receive.

The table shows that the hypothetical claimant was paid a total of \$24,500 in the base period and \$11,800 in the calendar quarter in which the highest wages were paid. Because the base period generally is the first four of the previous five quarters, in this example, pay in the most recent calendar quarter is not shown in the table and not included in base-period wages.

The first step in computing the claimant's benefit payments is to determine the weekly benefit rate. The weekly benefit rate is equal to 4% of the wages in the calendar quarter in which the highest wages were paid. In this case, that would be 4% of \$11,800 or \$472. Under Wisconsin law, a statutory formula is used to perform this calculation. However, because the calculated rate exceeds the maximum weekly benefit rate provided in the statutes, the maximum statutory rate of \$370 would apply. (Appendix V shows the complete schedule used to determine weekly benefit amounts.)

In order to be eligible for benefits, current law requires that the claimant must be paid total wages in the base period equal to 35 times the weekly benefit rate, including an amount at least four times the weekly benefit rate in quarters other than that in which the highest payments occur. With a weekly benefit rate of \$370, the claimant must be paid total wages of 35 x \$370 or \$12,950, and 4 x \$370 or \$1,480 of that amount must be paid

outside the quarter with the highest wages. In the example, the claimant was paid total wages of \$24,500, including \$12,700 outside the high quarter and, as a result, is eligible to receive benefits.

Total benefit payments are the lesser of 26 times the weekly benefit rate or 40% of base-period wages. For the hypothetical claimant that amount would be \$9,620, or 26 times the weekly benefit rate (26 x \$370) rather than 40% of base-period wages, which would be \$9,800 (.40 x \$24,500). The number of weeks for which the weekly benefit payment would be received is determined by dividing total benefit payments by the weekly benefit rate. In this case, that results in 26 weeks during which benefits would be paid ( $\$9,620 \div \$370$ ).

In general, if a claimant has base-period wages with more than one employer, each employer's reserve account in the UI trust fund is charged for benefits paid in proportion to the claimant's base-period wages paid by that employer. However, employers who pay total wages that are less than 5% of the claimant's base-period wages are generally not charged for benefits based on such wages. Instead, each other employer with a share of base-period wages is charged for these benefits in the same proportion that base-period wages from such employers bear to total base-period wages from such employers.

**Treatment of Other Income.** Generally, compensation in lieu of wages, including temporary worker's compensation payments, back pay, bonus pay, vacation pay, holiday pay, termination pay, and sick pay paid directly by the employer at the employee's usual rate of pay, are treated as base-period wages for the purposes of benefit qualification and the determination of an individual's weekly benefit amount. Also, such payments are treated in the same manner as wages earned in partial employment and can act to reduce or deny a claimant's benefit payment.

Retirement pay, however, is treated somewhat differently than other nonwage payments. An individual's regular benefit payment will be reduced by the amount of retirement pay paid in that week and financed by contributions made by an employer in the claimant's base period. One-half of the amount is considered to have been financed by the employer and the weekly unemployment insurance benefit payment is reduced by one-half of any pension payments an individual received for that week, unless evidence is provided to DWD that a separately calculated fraction should be used. If an individual receives retirement pay that is entirely financed by employer contributions, their unemployment payment for that week will be reduced by the entire amount of the retirement pay. However, Social Security payments are not subject to this treatment. There is no reduction in unemployment insurance benefits for any amount of Social Security benefits received.

Certain types of disability payments will disqualify a claimant from UI benefits, including both temporary and permanent total disability worker's compensation payments. In addition, a claimant cannot simultaneously collect both Social Security Disability Insurance benefits and UI benefits.

Prior to 2013, the value of an employee fringe benefit plan (cafeteria plan) was included in the employee's wage base to calculate UI benefits, although such cafeteria plans are typically not taxed as wages. 2013 Wisconsin Act 36 makes consistent the treatment of cafeteria plan payments by not paying UI benefits on untaxed benefits.

In addition to reductions made for the receipt of wages or other types of pay, a claimant's weekly benefit payment can be reduced to pay child support obligations. If an agency enforcing a child support order notifies DWD, the Department is required to deduct the amount designated by the child support order from each week's payment. The Department then forwards this amount to the

child support enforcement agency.

**Weekly Certification.** In order to receive regular benefits, an individual must file a weekly certification with the Department by internet within 14 days after the end of the week for which benefits are claimed. A weekly certification is the method by which a claimant submits information to the Department regarding the claimant's employment status and availability for work, and which establishes a basis for the payment of unemployment benefits. Along with general qualifying information, the information submitted indicates whether the individual earned any wages, or any vacation, holiday, termination, retirement, or back pay during a given week. Each of these items may have an impact on the amount of the individual's benefit payment or whether the individual will receive a payment at all for that week.

### **Partial Employment**

Regular unemployment benefits may be available to individuals who are partially employed during a week. To determine the benefit payment received by an individual who is partially employed, the first \$30 of wages is excluded and the benefit payment is reduced by 67% of the individual's remaining wages. No benefit payment of less than \$5 may be made.

However, a claimant is ineligible to receive partial benefits for a week if the claimant worked 32 hours or more in a week or the claimant: (a) performs work; (b) would have earned wages for available work that the claimant did not accept; or (c) receives holiday pay, vacation pay, termination pay, or sick pay that alone or in combination total 32 or more hours. A claimant is ineligible to receive partial benefits for a week if the claimant receives wages earned for work performed in that week, sick pay, holiday pay, vacation pay, termination pay, bonus pay, back pay, or any combination thereof, totaling more than \$500 during that week.

## Work Share

Also called short-term compensation, work share is designed to help employers and employees adjust to business downturns. Instead of laying off workers, an employer can plan to reduce work hours. Full-time and part-time workers whose hours are reduced under an approved work-share plan receive UI benefits that are prorated for the partial work reduction. The employer must submit a work-share plan to the Department for its approval.

Through this plan, the employer must certify that the employer will:

- a. Reduce the hours of employees instead of conducting layoffs;
- b. Reduce the employees' work week hours between the range of 10% to 60%;
- c. Provide its normal retirement and health care benefits to work-share employees;
- d. Include in the plan the method the employer will use to provide notice to an employee whose work week will be reduced, unless this is not feasible;
- e. Include in the plan an estimate of the number of layoffs avoided as a result of the work-share program;
- f. Provide that at least two positions are covered by the work-share program on the effective date of the program;
- g. Not include employees who are employed on a seasonal, temporary, or intermittent basis;
- h. Prevent the layoff of at least two jobs by implementing the work-share program; and
- i. Include only employees that have been

engaged in employment with the employer for a period of at least three months.

Other requirements include: (a) employees do not need to be available for work or satisfy normal work-search action requirements, except the employee must be available to the work-share employer to address an increase in business demand; (b) employees may participate in training to enhance job skills without affecting availability for work upon approval by the Department; and (c) a participating employer may only participate up to 12 months in a five-year period.

The program was implemented December 31, 2013. Until August 22, 2015, the federal government reimbursed a substantial share (92.7%) of the employer's share of unemployment insurance charges under an approved work-share plan. After this date, benefits paid under an approved work-share plan are charged against an employer's reserve account in the same manner as regular UI benefits. The federal government awarded a grant to DWD in 2015 to implement the work-share program. States that receive federal grant money must continue their work-share programs for at least five years after the grant award.

As of October 1, 2018, seven employers had participated in the program. Four years later, as of October 1, 2022, the number of employers that had participated in a work-share program increased to 486, which reflects the additional funding and program flexibilities adopted by federal and state lawmakers in response to the COVID-19 pandemic.

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### Administration of the Unemployment Insurance System

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The DWD Division of Unemployment Insurance administers Wisconsin's unemployment

insurance law. A review of certain administrative decisions made by the UI Division can be requested of the Labor and Industry Review Commission (LIRC), which is attached to the Department of Administration for limited administrative purposes.

Financing for the administration of the unemployment insurance system is provided by the federal government through revenues from the federal unemployment tax. In order for DWD to receive this funding, the state's unemployment insurance law must be approved by the U.S. Secretary of Labor. This approval is given on an annual basis and is contingent upon Wisconsin's unemployment insurance law meeting various criteria specified in federal law.

DWD has three benefit centers and two hearing offices. In addition, DWD has entered into reciprocal arrangements with similar agencies in other states to aid in the administration of unemployment insurance benefits in situations involving employment or employers in more than one state.

In addition to administering unemployment tax and benefit payments, the Department must also: (a) maintain a portal on the internet that allows employers to log in and file complaints related to the administration of UI law; (b) create and periodically update a handbook that informs employers about the provisions and requirements of UI law; (c) provide information to employers concerning the financing of the UI system, including the computation of reserve percentages and their effect on the contribution and solvency rates of employers; (d) require LIRC to maintain a searchable, electronic database of its significant UI decisions; and (e) conduct an initial training for all administrative law judges, as well as require each administrative law judge to satisfy continuing education requirements.

### **Benefit Appeals Process**

If a dispute originates over a claim or a liability

for penalties filed by an individual, a regional adjudication center will make an investigation and issue an initial determination. Benefits will either be paid to or withheld from the individual on the basis of this determination, regardless of whether the losing party plans to appeal the decision. If a party to the dispute disagrees with the initial determination, that party has 14 days to file a written request for an appeal, accompanied by a statement of the reason for the disagreement.

After DWD's UI hearing office receives an appeal requesting a hearing, the hearing office processes the appeal, and schedules it for a hearing before an administrative law judge. Hearings statewide are conducted by telephone. DWD has hearing space available in Madison and Milwaukee, or access to other publicly available space, such as Job Centers, to accommodate the need for ad hoc in-person hearings.

The hearings are quasi-judicial proceedings, during which both sides are allowed to give testimony and cross-examine each other under oath. The administrative law judges ask questions of the parties involved to bring out any relevant facts. A written decision is issued by the administrative law judge based on the testimony and evidence produced at the hearing. The majority of cases involve proof by a "preponderance of the evidence." Whoever has the burden of proof must show it is more probable than not that the claim made is true.

The decision of an administrative law judge can be appealed to LIRC within 21 days of the decision. The Commission will usually accept only exhibits and a synopsis of the hearing record and will not usually take new testimony. However, the Commission is authorized to request additional information. LIRC will review the information and issue a decision. This decision can be appealed within 30 days to the Circuit Court. In addition, DWD must be named as an adverse party if an employer appeals a LIRC case to address any issue other than benefit claims.

At each stage in the appeals process, benefits are either paid or denied based on the most recent decision. If an individual has received benefits during the course of the appeals process, these benefits must be repaid if the final decision is in favor of the employer. If a claimant is denied benefits which are later granted on appeal, the claimant is paid for all weeks for which benefits were withheld as a result of the issue under appeal.

When benefits must be recovered because of the loss of an appeal, the reserve accounts of for-profit employers and nonprofit organizations that make contribution payments are immediately credited for the amount of the benefits paid to the individual. These benefits are then charged to the balancing account of the UI trust fund until they are repaid by the individual. In cases involving governmental units or nonprofit organizations that make reimbursement payments, these entities are not credited until the benefits are repaid by the individual.

The Department of Justice (DOJ) is specifically authorized to enforce the state unemployment insurance law. DWD's program revenue appropriation for unemployment interest and penalty payments provides funding for DOJ enforcement activities.

### **Unemployment Insurance Advisory Council**

The statutory Unemployment Insurance Advisory Council (UIAC) advises the Department on matters related to unemployment insurance. The UIAC is composed of five employer and five employee representatives, who are appointed by the DWD Secretary to serve six-year terms. In making these appointments, the Secretary is required to consider achieving balanced representation of the industrial, commercial, construction, nonprofit, and public sectors of the state's economy and to appoint at least one employer representative who is either the owner of a small business or a representative of an association primarily composed of

small businesses. In addition to these voting members, the Secretary must appoint a permanent classified employee of the Department to serve as a nonvoting chairperson.

The UIAC is required to advise the Department in carrying out the purposes of the Wisconsin unemployment insurance law and may submit its recommendations for changes in the unemployment insurance law to the Legislature and report its views on any other pending legislation that relates to unemployment insurance. In order to take action as a body, seven members of the UIAC must vote for a proposal.

### **Program Integrity**

A UI claimant commits fraud by providing false or inaccurate information to the Department when filing a claim for UI benefits in an effort to obtain monies to which they are not entitled. Similarly, an employer commits fraud when they provide false information to DWD in an effort to obtain a lower tax rating or deliberately misclassify an employee as an independent contractor to avoid paying the UI tax altogether. According to the Department, \$7.1 million in fraud overpayments and \$36.5 million in non-fraud overpayments were recovered in 2021.

Using a variety of tools, DWD is able to identify both fraud and non-fraud overpayments. These tools include the ability to detect overpayments by cross-matching benefit claims against employment, death, immigration and incarceration records. The Department's powers include the authority to conduct random audits of claimants' work search efforts. The Department currently has 12.5 full-time equivalent fraud investigators supported by both segregated (program integrity fund) and federal (UI administrative grant) funding.

There is a potential for fraud whenever a claimant conceals or misrepresents benefit eligibility information. Claimants are totally ineligible for

benefits, including any partial benefits for which the claimant would otherwise be eligible, for each week the claimant conceals wages or hours worked, holiday pay, vacation pay, termination pay, or sick pay. Claimants must provide an accurate and complete response to each inquiry made by the Department in connection with their receipt of benefits. The statutes provide a list of factors for DWD to consider in determining whether a claimant intended to mislead the Department. The Department is not required to prove that a claimant had an intent to receive improper benefits to find concealment.

Regarding the collection of unpaid debts, DWD uses a variety of recovery tools such as UI benefit offsets, wage garnishments, levies, liens and warrants. In addition, the Department has been granted the authority to: (a) recover benefit overpayments from a claimant's federal income tax refund through the U.S. Treasury's Tax Offset Program; (b) intercept an employer's federal income tax refunds to recover debts due to the Department; (c) intercept state income tax refunds, lottery payments, state vendor payments, and unclaimed property of employers and personally liable individuals who owe debts to the Department; (d) enter into agreements with financial institutions to match UI delinquent debtor files against bank accounts held at Wisconsin financial institutions; and (e) use Social Security numbers collected by the Department of Transportation for the sole purpose of administering DWD's UI collection responsibilities.

In addition to the detection and collection of UI debts, penalties are assessed as a consequence of fraud. 2011 Wisconsin Act 236 created a 15% surcharge imposed on certain fraudulent overpayments made to claimants. 2015 Act 55 increased the fraudulent overpayment surcharge to 40%, effective October 4, 2015. Under Act 55, the amount of the civil penalty that represents 15% of the overpayment will continue to be deposited into the UI trust fund and the amount of the penalty that

represents 25% of the overpayment will be deposited in the Department's program integrity fund. Table 4 shows that UI fraud penalty payments totaled \$2.7 million in 2021-22, of which \$1.1 million was deposited to the UI trust fund and \$1.6 million was deposited to the UI program integrity fund.

**Table 4: History of UI Fraud Penalty Payment Collections**

State Fiscal Year	Deposited to the UI Program Integrity Fund*	Deposited to the UI Trust Fund**	Total
2012-13	\$62,759	-	\$62,759
2013-14	888,608	\$393,619	1,282,227
2014-15	205,580	1,891,270	2,096,850
2015-16	394,497	1,663,534	2,058,031
2016-17	1,368,366	1,145,620	2,513,986
2017-18	1,067,198	793,433	1,860,631
2018-19	1,005,006	697,057	1,702,063
2019-20	951,797	630,387	1,582,184
2020-21	644,197	421,553	1,065,750
2021-22	1,577,091	1,131,021	2,708,112

\* Includes fraud penalty revenue from 15% surcharge established between October 21, 2012 - October 20, 2013, and fraud penalty revenue from 25% surcharge established from October 4, 2015 - present.

\*\* Includes fraud penalty revenue from 15% surcharge established from October 21, 2013 - present.

DWD's program integrity fund is a separate nonlapsible fund only used for payment of costs associated with program integrity activities. The fund condition is shown in Table 5. In addition to penalty proceeds from claimants and employers, the fund has several additional revenue sources. DWD may require contribution employers to pay a 0.01% program integrity assessment with a corresponding reduction in the solvency tax. The fee was first imposed on January 1, 2017, and generated \$3,550,000 in 2021-22. The Department may also transfer funds that exist after the repayment of the interest on the federal loans to the balancing account, the unemployment program integrity fund, or both. On August 19, 2016, DWD transferred \$9,391,500 to the Department's program integrity fund. DWD may also transfer any

**Table 5: Program Integrity Fund Condition, Actuals for 2018-19 through 2021-22**

	2018-19	2019-20	2020-21	2021-22
Opening Balance	\$10,276,394	\$14,700,482	\$14,452,044	\$18,606,657
Annual Revenue	5,087,560	4,526,235	4,355,257	5,168,258
Fund Expenditures	<u>-663,472</u>	<u>-4,774,673</u>	<u>-200,644</u>	<u>-187,247</u>
Ending Balance	\$14,700,482	\$14,452,044	\$18,606,657	\$23,587,668

unencumbered funds from the Department's UI drug testing and treatment biennial GPR appropriation account to DWD's program integrity fund.

Penalty payments made by claimants are in addition to a reduction of future benefits for acts of fraud by two, four and eight times the weekly benefit rate, escalating with repeat offenses. Benefit reductions remain in effect for six years or until satisfied, whichever occurs first. DWD may also deny an application for or revoke a license or credential issued by a state agency if the license holder or applicant is liable for delinquent UI contributions.

Criminal penalties for UI fraud are based on the amount of benefits fraudulently obtained. If the value of UI benefits fraudulently obtained is \$2,500 or less, the claimant can be charged with a Class A misdemeanor and up to a \$10,000 fine or imprisonment up to nine months, or both. If the value of UI benefits fraudulently obtained is more than \$2,500, up to \$5,000, the claimant can be charged with a Class I felony and up to a \$10,000 fine or imprisonment up to 3.5 years, or both. If the value of UI benefits fraudulently obtained is more than \$5,000, up to \$10,000, the claimant can be charged with a Class H felony and up to a \$10,000 fine or imprisonment up to six years, or both. If the value of UI benefits fraudulently obtained is more than \$10,000, the claimant can be charged with a Class G felony and up to a \$25,000 fine or imprisonment up to 10 years, or both.

Construction employers that intentionally misclassify an employee as a nonemployee are fraudulent and can be subject to both criminal and

administrative penalties. There is a criminal fine of \$1,000 for each employee who is misclassified, subject to a maximum fine of \$25,000 for construction employers who knowingly and intentionally attempt to misclassify workers. There are two administrative assessments for construction employers. The first penalty is directed at those employers who knowingly and intentionally misclassify workers as independent contractors. The assessment is \$500 per employee with a maximum assessment of \$7,500 per employer per incident. The second assessment is directed at those employers who coerce individuals to adopt independent contractor status. The assessment is \$1,000 per employee coerced with a maximum assessment of \$10,000 per employer per year. Assessment proceeds are deposited into the unemployment program integrity fund. The Department is required to assess the administrative assessments before the employer can be charged for the criminal fine.

DWD is required to issue a summary of the Department's activities related to detection and prosecution of UI fraud in the preceding year and submit it to the UIAC annually by March 15.

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### **Unemployment Insurance Trust Fund**

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DWD is responsible for certain administrative aspects of the state's UI trust fund. This fund consists of all the contributions and other payments made under the state's unemployment insurance law. Federal law requires that the unemployment reserves in this fund be kept on deposit with the U.S. Treasury. The U.S. Bank, which receives the

employers' payments, transfers these funds to the U.S. Treasury, which pays interest on the money in nondebtor states' accounts. Unemployment insurance trust fund revenues can be expended only on unemployment insurance benefit payments. As the fund is maintained by the federal government, it is not included in the Wisconsin Annual Fiscal Report.

To withdraw money to make regular unemployment insurance benefit payments, DWD notifies the U.S. Treasury of its estimate of funds needed to cover benefit payments. Upon notification, the Treasury makes a wire transfer of funds from the Wisconsin account at the U.S. Treasury to a separate checking account maintained at U.S. Bank for benefit payments. Benefits are then debited to this account as benefit payments are processed.

If the amounts in Wisconsin's UI trust fund account at the U.S. Treasury are insufficient to cover anticipated benefit payments, the state can borrow from the federal unemployment account. This borrowing is done at an interest rate of the unemployment insurance trust fund yield from the fourth quarter of the previous calendar year, up to 10%. However, no interest is charged for some short-term loans under certain circumstances, including that the loan is repaid by specified dates and meets other federally specified criteria.

The Department is required to submit information on the status of the UI trust fund to the Legislature on a biennial basis. The DWD Secretary is required to submit a statement of unemployment insurance financial outlook to the Governor, the Legislature and the UIAC no later than May 31 of each even-numbered year. This statement must include the following:

- a. Proposed changes in the laws, if any, relating to unemployment insurance financing, benefits, and administration;
- b. Projections of unemployment insurance

operations through the second year following the close of the biennium, including benefit payments, tax collections, borrowing or debt repayments, and the amount of interest charges, if any, under both current law and any proposed changes;

- c. The economic and public policy assumptions upon which the projections are made and the impact that variations from these assumptions would have on the projections;

- d. If significant cash reserves in the UI trust fund are projected throughout the forecast period, a statement giving the reasons why the reserves should be retained in the fund; and

- e. If unemployment insurance program debt is projected at the end of the forecast period, the methods proposed to liquidate the debt.

DWD is required to consider the UIAC's proposals for administrative or legislative action and to review the proposals for possible incorporation into the Department's legislative recommendations. The DWD Secretary is required to issue a report to the Governor and Legislature, no later than January 31 of each even-numbered year, summarizing the deliberations of the UIAC and the position of the UIAC, if any, concerning each proposed change in unemployment insurance laws.

The Department is required to post the most recent version of the May 31 financial outlook statement and the most recent version of the January 31 report on DWD's website.

### **Financial Status of the UI Trust Fund**

Table 6 shows the fund's year-end (December 31) balance and outstanding debt for 1982 through 2022. The table shows that the year-end deficit in the trust fund reached a high of \$637 million at the end of 1983. The decline in the balance through 1983 reflect the impact of the early 1980s

recession. However, the deficit gradually decreased following legislative changes intended to stabilize the fund through the 1980s. The fund had a positive ending balance at the end of 1986.

The balance in the UI trust fund grew to \$1.815 billion at the end of 2000 and then declined to a low of -\$1.348 billion at the end of 2010. The decline in the balance from 2001 through 2003 reflects the impact of the 2000 recession. However, the fund balance continued to decline from 2004 through 2008. As a result, the fund had insufficient reserves to pay additional benefits during the 2007-2009 recession, and the fund ended each year from 2009 through 2013 with a negative balance. The fund has had a positive year-end balance since 2014.

Beginning in 2004, federal Reed Act monies were used to fund administrative expenses. In 2002, the federal government made a one-time distribution of Reed Act funds to the states. Wisconsin received an allocation of \$166 million, which was placed in the UI trust fund.

In response to the decline in the UI trust fund balance during the 2000s, 2005 Wisconsin Act 86 required DWD to analyze the long-term fiscal stability of the trust fund and present the analysis to the UIAC. The report indicated that the financing system for the fund did not adequately reflect growth in the economy and that assignment of tax rates on the basis of employers' unemployment experiences had declined in importance, because fewer benefits were charged to employer reserve accounts and more benefits were charged to the balancing account. Specifically, the report indicated that: (a) employee wages had increased but the employers' taxable wage base was defined as \$10,500 since 1986; (b) covered private employment increased 21% between 1990 and 2005, which resulted in an increase in the number of unemployed workers and UI benefit payments at any given rate of unemployment; and (c) the amount of benefits paid from the balancing account increased from \$42 million in 1990 to \$118 million

**Table 6: Year-End Unemployment Insurance Trust Fund Balance and Outstanding Loans (In Millions)**

Calendar Year	Revenues*	Benefit Expenditures	Year End Fund Balance
1982	\$223	\$688	-\$416
1983	298	519	-637
1984	565	347	-419
1985	573	406	-252
1986	648	352	43
1987	658	304	397
1988	615	266	746
1989	588	302	1,032
1990	513	341	1,203
1991	447	478	1,174
1992	448	438	1,184
1993	476	394	1,266
1994	505	377	1,394
1995	520	418	1,496
1996	517	471	1,542
1997	524	445	1,621
1998	524	452	1,693
1999	544	466	1,771
2000	559	515	1,815
2001	542	791	1,566
2002	684	949	1,301
2003	562	932	931
2004	644	798	777
2005	729	756	750
2006	723	756	717
2007	686	849	554
2008	649	1,020	183
2009	778	1,876	-915
2010	850	1,283	-1,348
2011	1,115	1,006	-1,239
2012	1,234	871	-876
2013	1,268	793	-401
2014	1,257	642	214
2015	1,063	535	741
2016	874	458	1,157
2017	721	408	1,470
2018	635	376	1,729
2019	602	372	1,959
2020	607	1,450	1,116
2021	501	589	1,028
2022**	441	189	1,280

\* Includes tax receipts, earned interest, 2002 federal Reed Act funding, FUTA credit reduction payments (2012-15), and certain other federal distributions.

\*\* Estimate as of August 1, 2022. Includes the \$60 million transfer into the UI trust fund from the state's general fund as specified in 2021 Act 58.

in 2005, while there was no increase in solvency tax rates, which are used to fund the balancing account. (The increase in charges to the balancing account is primarily due to charges for employees who quit one job, take another, and then are laid off, and for write-offs by employers with negative reserve account balances in excess of 10%.)

A number of changes were included in 2007 Wisconsin Act 59 to address these issues. The taxable wage base was increased from \$10,500 to \$12,000 for 2009 and 2010, \$13,000 in 2011 and 2012, and \$14,000 in 2013 and thereafter. The amount of wages necessary to qualify for UI benefits was increased from 30 to 35 times the claimant's weekly benefit rate. The Act increased the solvency rates for all employers and decreased the contribution rates by a corresponding amount. Specifically, on all of the contribution and solvency rate schedules (A, B, C, D) the solvency rates were increased by 0.2% and the contribution rates were decreased by a corresponding 0.2% for employers with positive reserve account balances. The solvency rates were increased by 0.4% and the contribution rates were decreased by a corresponding 0.4% for employers with negative reserve account balances.

### Federal Trust Fund Loan: 2009-2014

Wisconsin and several other states began

borrowing money from the U.S. Treasury in 2009 to meet the increased amount of benefit payments to unemployed individuals during the 2007-09 recession. The federal government suspended the payment and accrual of interest on borrowed federal funds for all states through December 31, 2010. Beginning with the 2011 payment, states were again required to pay interest on September 30<sup>th</sup> of each year in which interest has accrued during the prior 12 months. Federal law forbids using regular state UI taxes to pay this interest. State law requires DWD to determine an annual special assessment for interest (SAFI) on employers subject to the state's unemployment insurance law, the proceeds of which are used to pay the amount of interest due to the U.S. Treasury. The assessment is based on the employer's taxable payroll. The SAFI rate for employers using reimbursement financing must be equal to 75% of the rate imposed on employers using contribution financing. Employers with taxable payroll of \$25,000 or less for the prior calendar year are exempt from the assessment. Subject to these restrictions, DWD must set the SAFI rate at a level sufficient to generate the required interest payment.

Table 7 shows the SAFI rates that were imposed on employers and the amount of interest paid to the federal government in 2011 through 2014. The reduced rate for 2012 was, in part, a result of the 2011 assessment generating a greater

**Table 7: Interest Paid to the Federal Government and SAFI Rates Imposed on Employers**

Year	Assessment Rate for Employers Subject to Contribution Financing	Assessment Rate for Employers Subject to Reimbursement Financing	Amount Paid to Federal Government (Millions)
2011	0.2249%	0.1687%	\$42.3
2012	0.0806	0.0605	35.8
2013	N/A	N/A	18.9
2014	N/A	N/A	5.9

Note: For comparing the assessments, the taxable wage base per employee was \$12,000 in 2011 and \$13,000 in 2012. Also, 2013 and 2014 payments were made using state GPR rather than employer assessments.

amount of revenue than DWD had expected. The Department carried that balance to offset part of the employers' 2012 assessment. In addition, the 2012 assessment was imposed on a higher taxable wage base (\$13,000 instead of \$12,000 per employee), which also contributed to the lower assessment rate.

The amount collected by the SAFI and all interest and penalties on those assessments are deposited into a separate, nonlapsible trust fund called the unemployment interest payment fund. For a year in which the amount collected exceeds the interest payment due, the balance must be used to pay interest owed in subsequent years on advances from the federal unemployment account. If DWD determines that additional interest payments in subsequent years are unlikely, the balance must be deposited into the balancing account of the UI trust fund, the unemployment program integrity fund, or both.

2013 Wisconsin Act 20 included a provision allocating up to \$30 million of state general purpose revenues (GPR) to pay interest due on UI trust fund loans from the federal government during the 2013-15 biennium. The \$18.9 million in interest due September 30, 2013, and the \$5.9 million interest due September 30, 2014, were paid using these state funds. This means employers were not assessed for the interest due to the federal government on Wisconsin's outstanding unemployment loans for 2013 and 2014. The federal loan was fully repaid in July 2014.

Under federal law, if a state has outstanding loan balances on January 1 for two consecutive years, and does not repay the full amount of its loans prior to November 10 of the second year, the FUTA tax credit to employers is reduced by 0.3%. For each subsequent year in which the fund remains in deficit, the FUTA credit is reduced by an additional 0.3%. For calendar year 2011, the FUTA tax credit of 5.4% was reduced to 5.1%. Revenue generated by the federal reduction in the FUTA tax credit is generally deposited into the

fund in the following year. The 2011 credit reduction generated approximately \$47 million and was deposited into the fund in 2012. The FUTA credit was reduced to 4.8% for 2012 and 4.5% for 2013. The trust fund balance was positive on November 9, 2014, which meant that the effective FUTA tax rate for 2014, payable January 31, 2015, returned to 0.6% on the first \$7,000 of employee's wages. Table 8 shows the FUTA tax credit and effective FUTA tax rate paid by Wisconsin employers from 2011 through 2014. The effective FUTA tax rate paid by employers remained 0.6% from 2014 through 2022.

**Table 8: FUTA Tax Rate on Wisconsin Employers**

Year	FUTA Tax Rate	FUTA Tax Credit	Effective FUTA Tax Rate Paid by Employers
2011	6.00%	5.10%	0.90%
2012	6.00	4.80	1.20
2013	6.00	4.50	1.50
2014 to Current	6.00	5.40	0.60

As shown in Table 6, UI benefit expenditures declined steadily between 2009 and 2019 as the result of a recovering economy, a lower state unemployment rate, and a historically low level of unemployment claims. This period of continually lower benefit expenditures was interrupted by the pandemic which caused a spike in benefit expenditures in 2020 and, to a smaller degree, 2021. Through 2022, benefit expenditures are tracking in line with the lower number of UI claims experience during the pre-covid 2009-2019 period.

From 2009 through 2015, UI trust fund revenues rebounded due to: (a) the state taxable wage base increasing to \$14,000 in 2013 and thereafter; (b) a larger tax base from business expansion and job growth; (c) Schedule A going into effect in 2010; and (d) higher contribution rates compared to prior years resulting from lower employer reserve percentages.

Starting in 2015, UI trust fund revenues slowed as a result of higher employer reserve percentages and continually more favorable rate schedules. Taxable employers moved from Schedule A to B in 2016, Schedule B to C in 2017, and from Schedule C to D in 2018.

Schedule D, the lowest rate schedule, was in effect in 2021 based on the June 30, 2020 UI trust fund balance. 2021 Act 59 statutorily fixed the rate schedule for 2022 and 2023 to Schedule D. In addition, 2021 Act 58 transferred \$60,000,000 in fiscal year 2021-22 and \$60,000,000 in fiscal year 2022-23 from the state's general fund to the UI trust fund. The net result of Acts 58 and 59 are that contributory employers would not pay increased UI taxes under a different schedule in 2022 and 2023, while the UI trust fund would receive the same amount of increased revenue anticipated under a higher rate schedule during those years. The UI trust fund balance on June 30, 2023, will again determine the rate schedule for 2024.

During the COVID-19 pandemic, many state and federal laws relieved employers of the burden of future tax rate increases due to the pandemic. Under 2019 Wis. Act 185 and 2021 Act 4, UI benefits paid during the pandemic period were instead charged to the UI balancing account rather than charged to employer accounts. This prevents the UI benefit charges during the pandemic period from impacting employers' experience ratings. This explains why Table 6 shows tax revenues continuing to decline through the pandemic period despite the spike in benefit payments in 2021.

### **Trust Fund Solvency**

As shown in Table 6, the UI trust fund's year-end balance for 2022 (through August 1, 2022), was \$1,280 million, or down from \$1,959 million in 2019 which was Wisconsin's largest trust fund balance in history. However, the dollar amount in a state trust fund is not a precise measure of state

solvency, because no comparison is made to the fund's potential benefit liabilities or state payroll size.

USDOL's metric for measuring the solvency of state UI trust funds is called the Average High Cost Multiple (AHCM). Generally, the AHCM measures the trust fund balance as a percentage of total payroll against an average of either the three highest-cost benefit years of the last 20 years, or the last three recessions, whichever time period is longer. USDOL recommends that state trust fund balances support at least a 1.0 AHCM. Values of 1.0 or higher are desirable because it means that a state's reserves are sufficient to cover one year of payments at an expected recessionary benefit payout rate.

As of January 1, 2020, just prior to the COVID-19 pandemic, Wisconsin's AHCM was equal to .97, or just under the recommended 1.0 level. This situation for the state and for employers compares favorably to the period immediately preceding the 2007-2009 recession; Wisconsin's AHCM at the end of 2006, just prior to the recession, was 0.29 and the state's trust fund balance was \$554 million.

In part due to the relative health of the state's UI trust fund heading into the pandemic, Wisconsin avoided having to borrow from the federal government to pay UI benefits during the 2020-2022 pandemic period. In fact, during this period, the fund balance only briefly dropped below \$1 billion. This compares favorably to the experience of 23 states that needed to borrow federal funds to pay unemployment benefits during the pandemic, with four states still repaying their federal loans at the end of 2022. Wisconsin's UI trust fund balance as of August 1, 2022, including the \$60 million transferred from the state's general fund into the fund as provided under 2021 Act 58, is estimated to be \$1,280 million, resulting in an AHCM of 0.64. An additional \$60 million will also be transferred in 2022-23.

## APPENDIX I

### Excluded Employment

The following types of employment are excluded from coverage by Wisconsin's unemployment insurance law. Wages may be subject to FUTA tax even if they are excluded from Wisconsin's unemployment tax.

#### **Governmental Units and Native American Tribes**

1. Service as an official elected by vote of the public or as an official appointed to fill the unexpired term of a vacant position normally filled by vote of the public.

2. Service as a member of a legislative body or the judiciary of a state or political subdivision, or as a member of an elective legislative body or the judiciary of a tribe.

3. Service as a member of the Wisconsin National Guard in a military capacity.

4. Service as an employee serving solely on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.

5. Service in a major nontenured policymaking or advisory position, under the laws of this state or a tribe, or in a policymaking or advisory position taking less than eight hours per week.

#### **Governmental Units, Tribes, or Nonprofit Organizations**

1. Service by an individual receiving work relief or work training as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency, other governmental agency, or tribe, unless coverage is required as a condition for participation in

the program.

2. Service by an individual receiving rehabilitation in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age, injury, or physical or mental deficiency.

3. Service by an individual performing remunerative work in a facility which provides remunerative work for individuals who cannot be readily absorbed in the competitive labor market because of impaired physical or mental capacity.

4. Service by an inmate of a custodial or penal institution.

#### **Nonprofit Organizations**

1. Service in the employ of a church or a convention or association of churches.

2. Service in the employ of an organization operated primarily for religious purposes and operated, supervised, controlled, or principally supported by a church or a convention or association of churches.

3. Service by a duly ordained, commissioned, or licensed minister of a church in the exercise of their ministry or service by a member of a religious order in the exercise of duties required by the order.

#### **Educational Institutions**

1. Service by a student who is enrolled and is regularly attending classes at an educational institution.

2. Service by the spouse of such a student, if given written notice at the start of the service that the work is under a program to provide financial assistance to the student and that the work will not be covered by any program of unemployment insurance.

### **Specified Employers**

1. Service by an individual who is enrolled as a student at a nonprofit or public educational institution that maintains a regular faculty, curriculum, and organized body of students in a full-time program taken for credit, which combines academic instruction with work experience as an integral part of the program, unless the program was established by or on behalf of an employer or employers.

2. Service as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school.

3. Service as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school.

4. Service in the employ of a hospital by a patient of the hospital.

5. Service in any calendar quarter in the employ of most organizations exempt from the federal income tax if the remuneration for the service is less than \$50.

6. Service by a nonresident alien holding a Student (F and M) Visa, Exchange Visitor (J) Visa or Cultural Exchange (Q) Visa for the period they are temporarily present in the U.S. as a nonimmigrant under federal law if the service is performed to carry out the purpose for which the alien is admitted to the U.S., or service by the spouse or child of the alien, if the spouse or child were also admitted for the same purpose.

7. Service in state and national AmeriCorps programs when payment for the services are federal monthly living allowances and eligibility for educational awards upon completion of services. The exclusion does not apply to AmeriCorps state and national program participants who are performing service as part of a professional corps program or an educational awards program.

8. Service by an individual to an ill or disabled family member related by blood or adoption as a spouse, parent, child, grandparent, grandchild, step parent, step child, or domestic partner if the service is personal care or companionship and the employee is employed by the ill or disabled family member.

9. Service performed by an inmate of a state or federal prison.

10. Service performed by a full-time student for less than 13 calendar weeks in a calendar year in the employment of an organized camp, if either: (a) the camp does not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year; or (b) the camp had average gross receipts for any six months in the preceding calendar year that were not more than 33.3% of its average gross receipts for the other six months in the preceding calendar year.

### **Private For-Profit Employers**

1. Service in agricultural labor unless the employer paid wages for agricultural labor of at least \$20,000 in any calendar quarter or employed at least 10 individuals in agricultural labor for some part of a day in at least 20 weeks.

2. Service as a domestic unless the employer paid wages of at least \$1,000 in any calendar quarter for the service of one or more domestics.

3. Service as a caddy on a golf course.

4. Service as an individual selling or distributing newspapers or magazines on the street or from house to house.

5. Service for which unemployment insurance is payable under the federal Railroad Unemployment Insurance Act.

6. Service by an individual working for another person as an insurance agent or solicitor if all such service is performed for remuneration solely by way of commissions.

7. Service by an individual that is a real estate licensee under state law if 75% of the worker's remuneration is directly related to sales or other output, including the performance of services, rather than to the number of hours worked, and if the individual must perform the services under a written contract that provides that the individual will not be treated as an employee with respect to the services for federal tax purposes.

8. Service as an unpaid officer of a corporation or association or as an unpaid manager of an LLC.

9. Service covered by any other unemployment insurance law pursuant to a reciprocal agreement between DWD and the administrative agency of another jurisdiction.

10. Service by an individual in the employ of the individual's son, daughter, or spouse and service by an individual under the age of 18 for their parent.

11. Service for an employer who would otherwise be subject to the state unemployment insurance law as a result of federal unemployment insurance law if the employer covers the service under the law of another jurisdiction and approval is granted by DWD.

12. Service by an individual as a court reporter if the individual receives wages on a per

diem basis.

13. Service by an individual who is engaged, in a home or otherwise than in a permanent retail establishment, in the service of selling or soliciting the sale of consumer products for use, sale, or resale by the buyer, if substantially all payments are directly related to the sales or other output related to sales rather than to hours worked.

14. Service in any type of maritime service specifically excluded from coverage under the Federal Unemployment Tax Act.

15. Service by an individual who leases a motor vehicle used for taxicab purposes or equipment that is attached and that becomes part of the vehicle under a bona-fide lease agreement, provided that: (a) the individual retains the income earned through the use of the leased motor vehicle or equipment; (b) the individual receives no direct compensation from the lessor; and (c) the amount of the lease payment is not contingent upon the income generated through the use of the motor vehicle or equipment.

16. Work for a seasonal employer if, prior to such employment, the individual receives written notice from the seasonal employer that such service might not qualify the individual for unemployment insurance benefits unless: (a) the individual is employed by the employer for at least 90 days; or (b) the individual is paid at least \$500 from one or more other covered employers.

DWD is authorized to designate an employer a seasonal employer if:

a. The employer is in a tourism, recreational, or tourist service industry, including operation of a hotel, inn, camp, tourism attraction, restaurant, ice cream or soft drink stand, drive-in theater, racetrack, park, carnival, country club, golf course, swimming pool, chair lift, or ski resort, or the employer has been classified by DWD as primarily engaged in agricultural production,

agricultural services, forestry or commercial fishing, hunting, or trapping;

b. The employer customarily operates primarily during two calendar quarters within a year;

c. At least 75% of the wages paid by the employer during the preceding year were paid in the two calendar quarters of the business' seasonal operations; and

d. The employer is not delinquent in making unemployment insurance contribution payments or in filing a contribution report.

17. Service provided to a recipient of medical assistance (MA) by an individual who is not an employee of a home health agency if the service is:

a. Private duty nursing service or part-time intermittent care for which MA reimbursement is available as a covered service, provided by an

individual who is certified by the Department of Health Services (DHS) as a nurse in independent practice or as an independent nurse practitioner; or

b. Respiratory care service for ventilator-dependent individuals for which MA reimbursement is available as a covered service, provided by an individual who is certified by DHS as a provider of respiratory care services in independent practice.

If the remuneration for employment that is excluded from the state unemployment tax under these provisions is subject to the federal unemployment tax, such remuneration will not be excluded from the state tax during the period in which the remuneration is subject to the federal tax. Also, if employment that is excluded from state coverage is required by the Federal Unemployment Tax Act, the Social Security Act, or any other federal law to be employment as a condition for receiving a federal tax credit, then the exclusion does not apply under state law.

## APPENDIX II

### Computation of Contribution Liability

In order to illustrate how the unemployment insurance contribution tax liability is determined, Table 9 provides information for a hypothetical firm.

It is assumed that this firm employs three individuals in covered employment for the entire year and that a fourth employee works half of the year, quits, and then is replaced in the third quarter with a fifth employee. It is further assumed that the firm has a contribution rate of 1.62% and a solvency rate of 1.00% for a total rate of 2.62%. (This would imply a reserve percentage of 5.5% to 6.0% under rate Schedule A. The firm is subject to the solvency rate schedule for businesses with a taxable payroll of less than \$500,000.)

As Table 9 indicates, this hypothetical employer would pay a total of \$1,730 in unemployment insurance taxes to the UI trust fund. Since most of the employer's workers were employed from the beginning of the year and the contribution liability is based on the first \$14,000 of wages for each employee, most of the contribution payments are paid for the first half of the year (\$1,219 out of \$1,730, or 70.5%). Since contribution payments are based on taxable payroll rather than total payroll, differences in employee turnover can result in differing levels of contributions for employers with identical total payrolls. In general, employers subject to contribution financing provisions are required to file a contribution report

**Table 9: Hypothetical Employer Contributions**

	<b>Payroll Records</b>				
	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Employee 1	\$15,000	\$15,000	\$15,000	\$15,000	\$60,000
Employee 2	6,250	6,250	6,250	6,250	25,000
Employee 3	5,000	5,000	5,000	5,000	20,000
Employee 4	5,000	5,000	0	0	10,000
Employee 5	<u>0</u>	<u>0</u>	<u>7,000</u>	<u>7,000</u>	<u>14,000</u>
Total Payroll	\$31,250	\$31,250	\$33,250	\$33,250	\$129,000
	<b>Covered Payroll Over \$14,000 Per Employee</b>				
Employee 1	\$1,000	\$15,000	\$15,000	\$15,000	\$46,000
Employee 2	0	0	4,750	6,250	11,000
Employee 3	0	0	1,000	5,000	6,000
Employee 4	0	0	0	0	0
Employee 5	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Payroll	\$1,000	\$15,000	\$20,750	\$26,250	\$63,000
	<b>Contribution Liability Computation</b>				
Total Payroll	\$31,250	\$31,250	\$33,250	\$33,250	\$129,000
- Payroll Over \$14,000	<u>- 1,000</u>	<u>- 15,000</u>	<u>- 20,750</u>	<u>- 26,250</u>	<u>- 63,000</u>
Taxable Payroll	\$30,250	\$16,250	\$12,500	\$7,000	\$66,000
X Total Tax Rate	<u>.0262</u>	<u>.0262</u>	<u>.0262</u>	<u>.0262</u>	<u>.0262</u>
Total Liability	\$793	\$426	\$328	\$183	\$1,730

and make the required contribution payments for that calendar quarter at the close of the month following the calendar quarter for which the contributions are made. However, an employer that has a first quarter contribution liability of \$1,000 or more may defer payment to later due dates of 60% of its first quarter contribution liability, without interest, if certain conditions are met, as described previously in the section on contribution financing.

## APPENDIX III

### Mechanics of Contribution Financing Over Time

The following tables are designed to reflect the manner in which contribution financing operates over a period of time. For the purposes of this example, it is assumed that the employer had a June 30, 2022, reserve account balance of \$2,000, that its taxable payroll for the preceding twelve months (Q3 2021 through Q2 2022) was \$62,000 and that its regular contribution rate for the 2022 calendar year was 3.37%. This implies a June, 2021, reserve percentage of 0% to 3.5%. It is further assumed Schedule A of the unemployment insurance tax rate schedules was effective for calendar year 2022 and all subsequent years in this illustration. It is also assumed that the employer had a taxable payroll of \$8,000 for the last six months of 2022, and no benefits were paid during this period.

The employer's regular contribution rate for the 2023 calendar year is determined by dividing the June 30, 2022, reserve account balance of \$2,000 by the taxable payroll for the preceding twelve months (\$62,000). This computation yields a reserve percentage of 3.23%. It is assumed Schedule A of the tax rate schedules is effective 2023. Comparing this reserve percentage to Schedule A of the unemployment insurance tax rate schedules results in a regular contribution rate of 3.37%. The associated solvency rate is 1.40% for a total rate of 4.77% for calendar year 2023.

The employer's opening balance for calendar year 2023 can be determined by taking the June 30, 2022, reserve account balance of \$2,000, adding regular contributions made during the last six months of 2022 ( $3.37\% \times \$8,000 = \$270$ ), and subtracting any benefit payments made during that period (\$0). This calculation results in a Jan-

uary 1, 2023, reserve account balance of \$2,270. Table 10 shows the employer's contribution and benefit experience for calendar year 2023.

**Table 10: Calendar Year 2023**

	Quarter				Year End Summary
	1	2	3	4	
Opening Balance	\$2,270	\$3,214	\$3,905	\$4,215	\$2,270
Taxable Payroll	28,000	20,500	9,200	5,500	63,200
X Contribution Rate	<u>.0337</u>	<u>.0337</u>	<u>.0337</u>	<u>.0337</u>	<u>.0337</u>
Regular Contributions	\$944	\$691	\$310	\$185	\$2,130
Benefits Paid	0	0	0	0	0
Closing Balance	\$3,214	\$3,905	\$4,215	\$4,400	\$4,400

As this table indicates, in 2023, the employer made regular contribution payments of \$2,130 and did not experience any layoffs. To compute the employer's contribution rate for calendar year 2024, the closing balance for the second quarter, \$3,905, is divided by the taxable payroll for the preceding twelve months (\$8,000 for the last six months of 2022, and \$48,500 for the first six months of 2023 = \$56,500). This computation yields a reserve percentage of 6.91% and a corresponding contribution rate of 1.03% on Schedule A. The lack of layoffs and related benefit payments in the period from July 1, 2022, to June 30, 2023, produced a lower contribution rate for the employer. Note that solvency payments are not credited to individual employer's reserve account and, therefore, are not included in determining employer contribution rates. Table 11 provides information for calendar year 2024.

**Table 11: Calendar Year 2024**

	Quarter				Year End Summary
	1	2	3	4	
Opening Balance	\$4,400	\$4,632	\$5,103	\$1,970	\$4,400
Taxable Payroll	22,500	19,500	6,500	3,200	51,700
X Contribution Rate	<u>.0103</u>	<u>.0103</u>	<u>.0103</u>	<u>.0103</u>	<u>.0103</u>
Regular Contributions	\$232	\$201	\$67	\$33	\$533
Voluntary Contribution	\$0	\$270	\$0	\$0	\$270
Benefits Paid	0	0	\$3,200	\$3,200	\$6,400
Closing Balance	\$4,632	\$5,103	\$1,970	-\$1,197	-\$1,197

In 2024, the employer made regular contribution payments of \$533, and laid off two workers who received benefits of \$6,400. The calculation of the calendar year regular contribution rate for 2025 is made by dividing the June 30, 2024, closing balance by the taxable payroll for the preceding twelve months (third-quarter 2023 through second-quarter 2024). Without a voluntary contribution, the June 30 balance would be \$4,833. The previous twelve-month taxable payroll was \$56,700 (\$14,700 for the last six months of 2023 and \$42,000 for the first six months of 2024). Dividing these numbers results in a reserve percentage of 8.52%, and a corresponding contribution rate for calendar year 2025 of 0.52%. However, Table 11 assumes that the employer makes a voluntary contribution of \$270 (resulting in total contributions toward the June 30 balance of \$803) in order to increase its reserve percentage to 9.0% and reduce its 2025 contribution rate to 0.33%. It should be noted that, while the voluntary payment is paid in November, the payment affects the employer's balance for the prior June 30. For purposes of this table and for calculating the following year's contribution rate, the payment is shown to have occurred in the second quarter of 2024 even though the payment was made in the fourth quarter of 2024. If the employer expects taxable payroll to continue at about \$56,500, the voluntary contribution may reduce total contribution

payments over time. Also, note that, even though the employer laid off two workers in the second half of the year and ended with a negative reserve account balance, this experience will not be reflected in a higher contribution rate until calendar year 2026.

As Table 12 for calendar year 2025 indicates, the employer made regular contributions of \$212 in 2025, and recalled the two laid-off employees so that no benefits were charged to the employer's reserve account. The contribution rate in 2026 can be computed by dividing the June 30, 2025, closing balance (-\$1,033) by the prior year's taxable payroll (\$9,700 for the last six months of 2024, and \$49,500 for the first six months of 2025 = \$59,200). This computation produces a reserve percentage of -1.74% and a corresponding contribution rate of 5.8% on Schedule A. However, under Wisconsin law, the contribution rate paid by an employer with a negative reserve account balance cannot increase annually by more than two percentage points. As a result, in 2026, the employer in this example would be subject to a contribution rate of 2.33% (0.33% + 2.0%). Since there is no 2.33% regular contribution rate in Schedule A, the next highest regular contribution rate in the Schedule, 2.64%, is assigned for calendar year 2026. Note again that this increase in the 2026 contribution rate is the result of layoffs during the last six months of 2024.

**Table 12: Calendar Year 2025**

	Quarter				Year End Summary
	1	2	3	4	
Opening Balance	-\$1,197	-\$1,106	-\$1,033	-\$1,002	-\$1,197
Taxable Payroll	27,500	22,000	9,300	5,200	64,000
X Contribution Rate	<u>.0033</u>	<u>.0033</u>	<u>.0033</u>	<u>.0033</u>	<u>.0033</u>
Regular Contributions	\$91	\$73	\$31	\$17	\$212
Benefits Paid	0	0	0	0	0
Closing Balance	-\$1,106	-\$1,033	-\$1,002	-\$985	-\$985

During calendar year 2026, as shown in Table 13, the employer made regular contributions of \$1,718 and briefly laid off one employee during the second quarter. The benefits paid to this employee (\$320) would have an impact on the contribution rate for calendar year 2027, since the employer's June 30, 2026, reserve percentage would have been positive, between 0.0% and 3.5%, without the benefit payments. The employer's reserve percentage for determining the 2027 contribution rate is calculated by dividing the June 30, 2026, closing balance of -\$12 by taxable payroll for the previous twelve months (\$14,500 for the last six months of 2025, and \$49,000 for the first six months of 2026 = \$63,500). This results in a reserve percentage of -0.02% and a corresponding regular contribution rate of 5.30% for 2027. Again, the employer is subject to rate increase limits, but in this case there is not a rate of 4.64%, and the next highest rate is 5.30%. However, if the employer had made a voluntary contribution of \$13, there would be a positive reserve percentage (between 0% and 3.5%) and the corresponding rate would be 3.37%. If taxable wages remained stable, the employer would reduce contributions by \$1,256  $[(.053 - .0337) \times \$65,100 = \$1,256]$ .

This example illustrates the lag present in the method of contribution financing under Wisconsin's

**Table 13: Calendar Year 2026**

	Quarter				Year End Summary
	1	2	3	4	
Opening Balance	-\$985	-\$233	-\$12	\$255	-\$985
Taxable Payroll	28,500	20,500	10,100	6,000	65,100
X Contribution Rate	<u>.0264</u>	<u>.0264</u>	<u>.0264</u>	<u>.0264</u>	<u>.0264</u>
Regular Contributions	\$752	\$541	\$267	\$158	\$1,718
Benefits Paid	0	320	0	0	320
Closing Balance	-\$233	-\$12	\$255	\$413	\$413

unemployment insurance law. The hypothetical employer had regular contribution rates of 3.37% in 2023, 1.03% in 2024, 0.33% in 2025, 2.64% in 2026, and 5.3% in 2027. The employer's laid-off workers collected unemployment benefits of \$0 in 2023, \$6,400 in 2024, \$0 in 2025, and \$320 in 2026. The employer paid its lowest contribution rates during the years (2024 and 2025) in which it generated negative reserve account balances. Conversely, it paid relatively higher rates in years in which it had positive reserve account balances (2023 and 2026). This lag makes the financing of unemployment insurance benefits counter-cyclical in its response to changing unemployment conditions.

## APPENDIX IV

### Weekly Benefit Rate Schedule

Highest Quarterly Wages Paid		Weekly Benefit Rate	Highest Quarterly Wages Paid		Weekly Benefit Rate	Highest Quarterly Wages Paid		Weekly Benefit Rate	Highest Quarterly Wages Paid		Weekly Benefit Rate
Under	\$1,350.00	\$0	\$2,275.00	to \$2,299.99	\$91	\$3,225.00	to \$3,249.99	\$129	\$4,175.00	to \$4,199.99	\$167
1,350.00	to 1,374.99	54	2,300.00	to 2,324.99	92	3,250.00	to 3,274.99	130	4,200.00	to 4,224.99	168
1,375.00	to 1,399.99	55	2,325.00	to 2,349.99	93	3,275.00	to 3,299.99	131	4,225.00	to 4,249.99	169
1,400.00	to 1,424.99	56	2,350.00	to 2,374.99	94	3,300.00	to 3,324.99	132	4,250.00	to 4,274.99	170
1,425.00	to 1,449.99	57	2,375.00	to 2,399.99	95	3,325.00	to 3,349.99	133	4,275.00	to 4,299.99	171
1,450.00	to 1,474.99	58	2,400.00	to 2,424.99	96	3,350.00	to 3,374.99	134	4,300.00	to 4,324.99	172
1,475.00	to 1,499.99	59	2,425.00	to 2,449.99	97	3,375.00	to 3,399.99	135	4,325.00	to 4,349.99	173
1,500.00	to 1,524.99	60	2,450.00	to 2,474.99	98	3,400.00	to 3,424.99	136	4,350.00	to 4,374.99	174
1,525.00	to 1,549.99	61	2,475.00	to 2,499.99	99	3,425.00	to 3,449.99	137	4,375.00	to 4,399.99	175
1,550.00	to 1,574.99	62	2,500.00	to 2,524.99	100	3,450.00	to 3,474.99	138	4,400.00	to 4,424.99	176
1,575.00	to 1,599.99	63	2,525.00	to 2,549.99	101	3,475.00	to 3,499.99	139	4,425.00	to 4,449.99	177
1,600.00	to 1,624.99	64	2,550.00	to 2,574.99	102	3,500.00	to 3,524.99	140	4,450.00	to 4,474.99	178
1,625.00	to 1,649.99	65	2,575.00	to 2,599.99	103	3,525.00	to 3,549.99	141	4,475.00	to 4,499.99	179
1,650.00	to 1,674.99	66	2,600.00	to 2,624.99	104	3,550.00	to 3,574.99	142	4,500.00	to 4,524.99	180
1,675.00	to 1,699.99	67	2,625.00	to 2,649.99	105	3,575.00	to 3,599.99	143	4,525.00	to 4,549.99	181
1,700.00	to 1,724.99	68	2,650.00	to 2,674.99	106	3,600.00	to 3,624.99	144	4,550.00	to 4,574.99	182
1,725.00	to 1,749.99	69	2,675.00	to 2,699.99	107	3,625.00	to 3,649.99	145	4,575.00	to 4,599.99	183
1,750.00	to 1,774.99	70	2,700.00	to 2,724.99	108	3,650.00	to 3,674.99	146	4,600.00	to 4,624.99	184
1,775.00	to 1,799.99	71	2,725.00	to 2,749.99	109	3,675.00	to 3,699.99	147	4,625.00	to 4,649.99	185
1,800.00	to 1,824.99	72	2,750.00	to 2,774.99	110	3,700.00	to 3,724.99	148	4,650.00	to 4,674.99	186
1,825.00	to 1,849.99	73	2,775.00	to 2,799.99	111	3,725.00	to 3,749.99	149	4,675.00	to 4,699.99	187
1,850.00	to 1,874.99	74	2,800.00	to 2,824.99	112	3,750.00	to 3,774.99	150	4,700.00	to 4,724.99	188
1,875.00	to 1,899.99	75	2,825.00	to 2,849.99	113	3,775.00	to 3,799.99	151	4,725.00	to 4,749.99	189
1,900.00	to 1,924.99	76	2,850.00	to 2,874.99	114	3,800.00	to 3,824.99	152	4,750.00	to 4,774.99	190
1,925.00	to 1,949.99	77	2,875.00	to 2,899.99	115	3,825.00	to 3,849.99	153	4,775.00	to 4,799.99	191
1,950.00	to 1,974.99	78	2,900.00	to 2,924.99	116	3,850.00	to 3,874.99	154	4,800.00	to 4,824.99	192
1,975.00	to 1,999.99	79	2,925.00	to 2,949.99	117	3,875.00	to 3,899.99	155	4,825.00	to 4,849.99	193
2,000.00	to 2,024.99	80	2,950.00	to 2,974.99	118	3,900.00	to 3,924.99	156	4,850.00	to 4,874.99	194
2,025.00	to 2,049.99	81	2,975.00	to 2,999.99	119	3,925.00	to 3,949.99	157	4,875.00	to 4,899.99	195
2,050.00	to 2,074.99	82	3,000.00	to 3,024.99	120	3,950.00	to 3,974.99	158	4,900.00	to 4,924.99	196
2,075.00	to 2,099.99	83	3,025.00	to 3,049.99	121	3,975.00	to 3,999.99	159	4,925.00	to 4,949.99	197
2,100.00	to 2,124.99	84	3,050.00	to 3,074.99	122	4,000.00	to 4,024.99	160	4,950.00	to 4,974.99	198
2,125.00	to 2,149.99	85	3,075.00	to 3,099.99	123	4,025.00	to 4,049.99	161	4,975.00	to 4,999.99	199
2,150.00	to 2,174.99	86	3,100.00	to 3,124.99	124	4,050.00	to 4,074.99	162	5,000.00	to 5,024.99	200
2,175.00	to 2,199.99	87	3,125.00	to 3,149.99	125	4,075.00	to 4,099.99	163	5,025.00	to 5,049.99	201
2,200.00	to 2,224.99	88	3,150.00	to 3,174.99	126	4,100.00	to 4,124.99	164	5,050.00	to 5,074.99	202
2,225.00	to 2,249.99	89	3,175.00	to 3,199.99	127	4,125.00	to 4,149.99	165	5,075.00	to 5,099.99	203
2,250.00	to 2,274.99	90	3,200.00	to 3,224.99	128	4,150.00	to 4,174.99	166	5,100.00	to 5,124.99	204

Highest Quarterly Wages Paid	Weekly Benefit Rate	Highest Quarterly Wages Paid	Weekly Benefit Rate	Highest Quarterly Wages Paid	Weekly Benefit Rate	Highest Quarterly Wages Paid	Weekly Benefit Rate
\$5,125.00 to 5,149.99	\$205	\$6,150.00 to 6,174.99	\$246	\$7,175.00 to 7,199.99	\$287	\$8,200.00 to 8,224.99	\$328
5,150.00 to 5,174.99	206	6,175.00 to 6,199.99	247	7,200.00 to 7,224.99	288	8,225.00 to 8,249.99	329
5,175.00 to 5,199.99	207	6,200.00 to 6,224.99	248	7,225.00 to 7,249.99	289	8,250.00 to 8,274.99	330
5,200.00 to 5,224.99	208	6,225.00 to 6,249.99	249	7,250.00 to 7,274.99	290	8,275.00 to 8,299.99	331
5,225.00 to 5,249.99	209	6,250.00 to 6,274.99	250	7,275.00 to 7,299.99	291	8,300.00 to 8,324.99	332
5,250.00 to 5,274.99	210	6,275.00 to 6,299.99	251	7,300.00 to 7,324.99	292	8,325.00 to 8,349.99	333
5,275.00 to 5,299.99	211	6,300.00 to 6,324.99	252	7,325.00 to 7,349.99	293	8,350.00 to 8,374.99	334
5,300.00 to 5,324.99	212	6,325.00 to 6,349.99	253	7,350.00 to 7,374.99	294	8,375.00 to 8,399.99	335
5,325.00 to 5,349.99	213	6,350.00 to 6,374.99	254	7,375.00 to 7,399.99	295	8,400.00 to 8,424.99	336
5,350.00 to 5,374.99	214	6,375.00 to 6,399.99	255	7,400.00 to 7,424.99	296	8,425.00 to 8,449.99	337
5,375.00 to 5,399.99	215	6,400.00 to 6,424.99	256	7,425.00 to 7,449.99	297	8,450.00 to 8,474.99	338
5,400.00 to 5,424.99	216	6,425.00 to 6,449.99	257	7,450.00 to 7,474.99	298	8,475.00 to 8,499.99	339
5,425.00 to 5,449.99	217	6,450.00 to 6,474.99	258	7,475.00 to 7,499.99	299	8,500.00 to 8,524.99	340
5,450.00 to 5,474.99	218	6,475.00 to 6,499.99	259	7,500.00 to 7,524.99	300	8,525.00 to 8,549.99	341
5,475.00 to 5,499.99	219	6,500.00 to 6,524.99	260	7,525.00 to 7,549.99	301	8,550.00 to 8,574.99	342
5,500.00 to 5,524.99	220	6,525.00 to 6,549.99	261	7,550.00 to 7,574.99	302	8,575.00 to 8,599.99	343
5,525.00 to 5,549.99	221	6,550.00 to 6,574.99	262	7,575.00 to 7,599.99	303	8,600.00 to 8,624.99	344
5,550.00 to 5,574.99	222	6,575.00 to 6,599.99	263	7,600.00 to 7,624.99	304	8,625.00 to 8,649.99	345
5,575.00 to 5,599.99	223	6,600.00 to 6,624.99	264	7,625.00 to 7,649.99	305	8,650.00 to 8,674.99	346
5,600.00 to 5,624.99	224	6,625.00 to 6,649.99	265	7,650.00 to 7,674.99	306	8,675.00 to 8,699.99	347
5,625.00 to 5,649.99	225	6,650.00 to 6,674.99	266	7,675.00 to 7,699.99	307	8,700.00 to 8,724.99	348
5,650.00 to 5,674.99	226	6,675.00 to 6,699.99	267	7,700.00 to 7,724.99	308	8,725.00 to 8,749.99	349
5,675.00 to 5,699.99	227	6,700.00 to 6,724.99	268	7,725.00 to 7,749.99	309	8,750.00 to 8,774.99	350
5,700.00 to 5,724.99	228	6,725.00 to 6,749.99	269	7,750.00 to 7,774.99	310	8,775.00 to 8,799.99	351
5,725.00 to 5,749.99	229	6,750.00 to 6,774.99	270	7,775.00 to 7,799.99	311	8,800.00 to 8,824.99	352
5,750.00 to 5,774.99	230	6,775.00 to 6,799.99	271	7,800.00 to 7,824.99	312	8,825.00 to 8,849.99	353
5,775.00 to 5,799.99	231	6,800.00 to 6,824.99	272	7,825.00 to 7,849.99	313	8,850.00 to 8,874.99	354
5,800.00 to 5,824.99	232	6,825.00 to 6,849.99	273	7,850.00 to 7,874.99	314	8,875.00 to 8,899.99	355
5,825.00 to 5,849.99	233	6,850.00 to 6,874.99	274	7,875.00 to 7,899.99	315	8,900.00 to 8,924.99	356
5,850.00 to 5,874.99	234	6,875.00 to 6,899.99	275	7,900.00 to 7,924.99	316	8,925.00 to 8,949.99	357
5,875.00 to 5,899.99	235	6,900.00 to 6,924.99	276	7,925.00 to 7,949.99	317	8,950.00 to 8,974.99	358
5,900.00 to 5,924.99	236	6,925.00 to 6,949.99	277	7,950.00 to 7,974.99	318	8,975.00 to 8,999.99	359
5,925.00 to 5,949.99	237	6,950.00 to 6,974.99	278	7,975.00 to 7,999.99	319	9,000.00 to 9,024.99	360
5,950.00 to 5,974.99	238	6,975.00 to 6,999.99	279	8,000.00 to 8,024.99	320	9,025.00 to 9,049.99	361
5,975.00 to 5,999.99	239	7,000.00 to 7,024.99	280	8,025.00 to 8,049.99	321	9,050.00 to 9,074.99	362
6,000.00 to 6,024.99	240	7,025.00 to 7,049.99	281	8,050.00 to 8,074.99	322	9,075.00 to 9,099.99	363
6,025.00 to 6,049.99	241	7,050.00 to 7,074.99	282	8,075.00 to 8,099.99	323	9,100.00 to 9,124.99	364
6,050.00 to 6,074.99	242	7,075.00 to 7,099.99	283	8,100.00 to 8,124.99	324	9,125.00 to 9,149.99	365
6,075.00 to 6,099.99	243	7,100.00 to 7,124.99	284	8,125.00 to 8,149.99	325	9,150.00 to 9,174.99	366
6,100.00 to 6,124.99	244	7,125.00 to 7,149.99	285	8,150.00 to 8,174.99	326	9,175.00 to 9,199.99	367
6,125.00 to 6,149.99	245	7,150.00 to 7,174.99	286	8,175.00 to 8,199.99	327	9,200.00 to 9,224.99	368
						9,225.00 to 9,249.99	369
						9,250.00 and over	370